

~~CONFIDENTIAL~~

C.R.E. G. B. S.

Gloucester Aug 1753
John C. Jr. 1753



THE
INTERPRETER:
OR
BOOKE, CONTAINING
the Signification of Words.

*Wherein is set forth the true meaning of all,
or the most part of such words and Termes,
as are mentioned in the Law Writers, or
Statutes of this victorious and renowned
Kingdome, requiring any Exposition
or Interpretation.*

A Worke not onely profitable, but necessary for
such as desire throughly to be instructed in the
knowledge of our Lawes, Statutes, &
other Antiquities.

Collected by JOHN COWELL, Doctor, sometime
the Kings Majesties Professour of the Civill Law
in the Universitie of CAMBRIDGE.

In Legum obscuritate captio.

LONDON,
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Н П. С. А. Б.

ЛЯ-ПРИЯТИИ

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BOOK CONTAINING

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To the most Reverend Father in God,
his especiall good Lord, the Lord Archbisshop
of Canterbury, Primate and Metropolitan
of England, and one of his MAJESTIES most
Honourable Privie Councell.



Fter long deliberation, I hardly induced my selfe to crave your gracious protection toward this simple worke : valuing it at so low a price, as I thinke it hardly worth the respect of any grave man, much lesse the favourable aspect of so honourable a personage. Yet the remembrance of those your fatherly provocationes, whereby, at my comming to your Grace from the Universitie, you first put me upon these studies, at the last by a kind of necessitie inforced me to this attempt : because I could not see how well to avoide it, but by adventuring the hatefull note of unthankfulnessse. For I cannot without dissimulation, but confesse my selfe perswaded, that this poore Pamphlet may prove profitabile to the young Students of both Lawes, to whose advancement that way, I have of late addicted mine endeavours : else were I more than madde to offer it to the world : and to offer

The Epistle Dedicatore.

it without mention of him, that by occasioning of this good, more or lesse, deserveth the prime thankes, were to prove my selfe unworthy of so grave advice.

And therefore howsoever I account this too much boldnesse in respect of the subject : yet could I be exceedingly glad it might please your Grace to ascribe mine intention to the integritie of my dutie. For he that meaneth truly well, and cannot performe much, must needs rejoice at the good acceptance of that little which he performeth.

All I crave for this at your Graces hands, is patience and pardon for this enterprise, with the continuance of those your many favours, that hitherto to my great comfort I have enjoyed. And so my long observation of your judicious disposition, having taught me, what small delight you take in affected complements and verball commendation, without more words, In all true humblenesse, I beseech the Almighty long to continue your Grace in health and prosperitie, to his glory, and the good of his Church.

Your Graces at all

Commandement,

Jo. COVVELL.



To the Readers.



ENTLE Readers, I here offer my selfe to your censures, with no other desire, then by you to be admonished of my faultis. For though I doe professe the amplifying of their workes, that have gone before me in this kinde, and have both gathered at home, and brought from abroad some ornaments for the better embellishing of our English Lawes : yet am I neither so vaine as to deny my imperfections, nor so passionate, as to be offended at your charitable reformation. Nay, my true end is the advancement of knowledge ; and therefore have I published this poore worke, not onely to impart the good thereof to those young ones that want it : but also to draw from the learned the supply of my defectis : and so by degrees, if not my selfe to finish this modell, yet at the least, by the heat of emulation to incense some skilfuller Architect therunto. Then, I shall thinke my paines sufficiently recompensed, if they may be found but worthy to stirre up one learned man to amend mine erroris.

The Civilians of other Nations, have by their mutuall industries raised this kinde of worke in their profession, to an unexpected excellencie. I have seene many of them that have bestowed very profitable and commendable paines therein : and lastly, one Calvinus a Doctor of Heidelberg, like a laborious Bee, hath gathered from all the former, the best juyce of their floweres, and made up a hive full of detectable honie. And by this example would I gladly incite the learned in our Common Lawes and Antiquities of England, yet to lend their advice, to the gaining of some comfortable lights

To the Readers.

and prospects toward the beautifying of this ancient Palace, that hitherto hath beeene accompted (howsoever substantiall) yet but darke and melancholy.

Whoever will charge these my travails with many oversights, he shall need no soleme paines to prove them. For I will easly confess them. And, upon my view taken of this Booke sithence the Impression, I dare assure them that shall observe most faults therein, that I by gleaning after him, will gather as many omitted by him, as he shall shew committed by me. But I learned long sithence out of famous Tullie, That as no mans errours ought to be followed, because he saith some things well: so that which a man saith well, is not to be rejected, because he hath some errours. No man, no Booke is voide of imperfections. And therefore reprobred who will, in Gods name: that is with sweetnesse, and without reproach. So shall he reap heartie thankes at my hands: and by true imitation of the most judicious that ever wrote, more soundly helpe on this point of learning to perfection in a few moneths, then I by tossing and tumbling my Bookes at home, could possibly have done in many yeares. Experience hath taught me this in my Institutes lately set forth: by publishing whereof I have gained the judicious observations of divers learned Gentlemen upon them, which by keeping them private I could never have procured. By which meanes, I hope one day to commend them to you againe in a more exact purity, and so leave them to future times for such acceptance as it shall please God to give them.

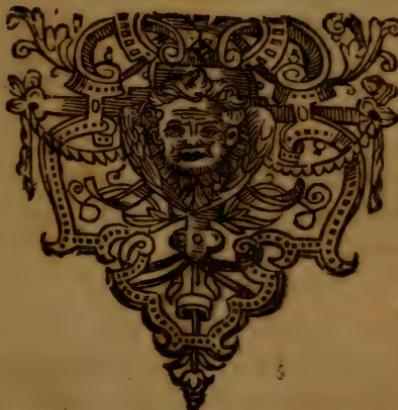
I have in some towardnesse a Tract (Deregulis Juris) wherein my intent is, by collating the cases of both Lawes, to shew, that they both be rayzed of one Foundation, and differ more in language and termes than in substance, and therefore were they reduced to one method (as they easily might) to be attained (in a manner) with all one paines. But my time imparted to these studies, being but stolne from mine employments of greater necessitie, I cannot make the haste I desire, or perhaps that the discourse may deserve. Wherefore

To the Readers.

fore untill my leisur may serve to performe that, I intreat you lovingly to accept this.

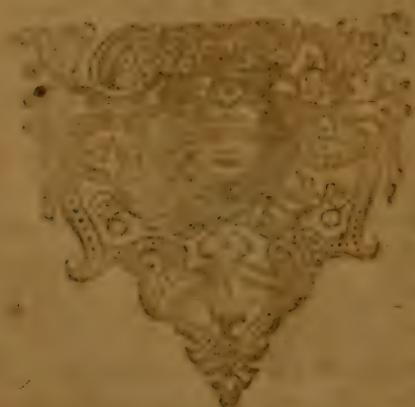
One thing I have done in this Booke, whereof, because it may seeme strange to some, I thinke to yeeld my reason : and that is the inserting not onely of words belonging to the art of the Law, but of any other also, that I thought obscure, of what sort soever ; as Fish, Cloath, Spices, Drugges, Furre, and such like. For in this I follow the example of our Civilians, that have thought it their part to expound any thing they could meet with in their walke. And in deed a Lawyer professeth true Philosophy, and therefore should not be ignorant (if it were possible) of either beasts, fowles, or creeping things, nor of the trees from the Cedar in Lebanon, to the Hyssop that springeth out of the wall. And therefore, if I have either omitted any hard word within my circuit, or set it downe not expounded ; I give you good leave to impute the one to my negligence, the other to mine ignorance : and so commend these my paines to your best profit, and you unto God. November. 3. 1607.

JO. COVVELL.



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John Cowper





The Signification of Words.

A B

A B

ABATE (*Intru-*
der) seemeth to
bee taken from
the French *Abat-*
tre, i. *decentere*,
destruere, *proster-*
nere. It is in the Writers of the
common law used both activly
and passively, or rather neuterly:
as to abate a Castle or a Fortlet,
Old nat. br. fol. 45. which in *Westm.*
1. cap. 17. is plainly interpreted to
be as much as to beat downe. And
to abate a Writ, is by some except-
ion to defeat or overthrow. In
Bruton, *cap. 48.* And in this Active
voice it hath two significations:
one generall, another speciaall: ge-
nerall, as in the former examples:
and againe in *Kitchin*, *fol. 173.* *A-*
bater meason, is to ruine or cast
down a house: especially, as in the
Old nat. br. fol. 115. A stranger abat-
teh, that is, entereth upon a house
or land void by the death of him
that last possessed it, before the
heire take his possession, & so kee-
peth him out. Wherfore as he that
putteth out him in possession, is

said to disseise: so he that steppeth
in between the former possessor
and his heire, is said to abate. In the
neuter signification it is used, *an. 34*
Ed. I. stat. 2. of joyn't tenents, *viz.*
the writ of the demandant shall ab-
ate, that is, shall be disabled, frus-
trated or overthownde. So in
St. munfords plees of the Crowne,
fol. 148. In this case a man may say,
that the Appeal abateth by covin,
that is, that the accusation is de-
feated by deceit. See *Intrusion*.

Abatement (*Intrusio*) com-
meth also of the French *(abate-*ment*)*, i. *dejetio, decussio, prostratio*)
and is likewise used as the verbe
(*abate*) both activly and passively:
sometime signifying the act of
the abatour; as the abatement of
the heire into the land before hee
hath agreed with the Lord, *Old*
nat. br. fol. 91. Sometime the af-
fection or passion of the thing ab-
ated, as abatement of the writ,
Kuchin, *fol. 214.* And in this sig-
nification it is as much as *excep-*tio dilatoria** with the Civilians,
Brit. cap. 51. or rather an effect of

it. For the exception alledged and made good, worketh the abatement. And this exception may be taken either to the insufficiencie of the matter, or to the incertaintey of the allegation by the misnaming of the Plaintiff, Defendant, or place to the variance betweene the Writ and the Specialitie, or Record, to the incertaintie of the Writ, Count, or Declaration, or to the death of the Plaintiff or Defendant: New Termes of the Law, verbo, Abatement of Writ. And he that will reade more of this, may looke upon the new Booke of Entries, verbo briefe.

Abatour (*Intrusor*) is hee that abateth, that is, thrusteth into a house or land, void by the death of the former possessor, and not yet entered or taken up by his Heire. Old nat. br. fol. 115. Perkins fol. 76. If there bee a disseisor, Abator, or intrudor upon any Land by the deceipt of the woman, &c. *Leviathan* (new)

Abbat (*Abbas*) in French *Abbé*, is by skillfull Linguists said to come from the Syriacke word (*Abba*) i. pater, and in our Common Law is used for him that in the Covent or fellowship of Canons hath the rule and preheminence. He is by Justinian novell constitut. 115. q. 2. termed *Archimandrita*, of others *Canobiarcha*, vel *Archimonachus*,

Hoto, in verbis Feuds. Of these some here in England were Mitred, some not: *Stowes annals*, p. 442. And those that were Mitred, were exempted from the Jurisdiction of the Diocesan, having in themselves Episcopall authority within their precincts, and being also Lords of the parliament. of this kinde thus saith *Curasius*; *Aliqui Abbates habent jurisdictionem Episcopalem, ad quae cum Ecclesia pleno jure pertinent, in eorum Monasteriis Episcopus nihil exercet, cap. Ea que. Vbi Panor. extra de statu Monacho. Hec dictas auibor in Paraphrasi de Sacerdotio, materia parte p. 9. cap 9.* And these were called Abbots soveraigne, anno 9. R. 2. cap. 4. and Abbots generals, as M. Ferme noted in his glory of generositie, p. 128. The other sort were subject to the Diocesan in all spirituall government, cap. *Monasteria* 18. quest. 2. ca. *Abbas. & ca. visitandi, cum quatuor sequentibus ibidem ca. Omnis. 16. quest. 7. & ca. Cum venerabilis, extra de religiosis dominibus.* And as Abbots, so were there Lord Priors also, who both had exempt jurisdiction, and were Lords of the parliament, as appeareth by S. Edward Cooke de jure Ecclesiastico. fol. 28. a.

Abeiance, seemeth to be derived from the French (*Abayer* i. allarare) to barkē at as dogges do against a stranger, or Spaniels

at a Fesant put to the pearke. So children are said (*bayer à la mame*) when seeing the dugge, they struggle and make meanes towards it. And they likewife (*bayer à l'argent*) qui spe atque animo incumbunt pecunie. This word in Littleton, cap. Discontinuance, is thus used. The right of Fee-simple lyeth in abeyance: that is (as himselfe interpreteth) all onely in the remembrance, intendment, and consideration of the law. Also in the same place, the Franke tenement of the Glebe of the Parsonage, is in no man dairing the time that the Parsonage is voyd, but is in abeyance. And againe: It is a principle in law, that of every land there is Fee-simple in some man, or the Fee-simple is in Abeyance. Considering these places, and comparing them with the signification of the French word, I am driven to thinke, that our auncient Lawyers would signifie hereby a kind of hope, or longing expectancie: because that those things that bee in abeyance, though for the present they be in no man, yet they are in hope and expectation belonging to him that is next to enjoy them. For I finde also in the French, that *un bayard*, is *avidus spectator*, a greedy beholder. I cannot in mine owne opinion better compare this, then to that which the Civilians call *Heredita-*

tem jacentem. For as Braxton saith (lib. i. cap. 12, nu. 10.) *Hereditus jacens nullius est in bonis aucte aditionem.* Sed scilicet in hoc quia sustinet vicem persone defuncti, vel quia speratur futura hereditas eius qui adibit. So that (as the Civilians say) goods and lands do jacer; whilst they want a possessor, and yet not simply, because they had lately one, and may shortly have another: so the common Lawyers doe say, that things in like estate are in abeyance. Reade farther of this in the new terms of law, and in Plowdens reports, *caser Walsingham*, fol. 554.a.

Abet (*Abettare*) may without absurditie be said to proceed from the French (*bouter, i. ponere, apponere, impellere, propellere*). It signifieth in our common law as much as to encourage or set on. The substantive (*abettment; abettum*) is used for an encouraging or setting on, *Stampf. pl. cor. fol. 105.* And also (*abettour*) for him that encourageth or setteth on, *Old nat. br. fol. 21.* But both verbe and noun is alway used in the evill part.

Abissring (according to Rastall in his Abridgement, *titulo Exposition of law words*) is to be quit of amerciaments before whomsoever of transgression. The author of the new tearmes calleth it otherwise (*Missersing*)

and sayth it is to be quit of amerciaments, before whomsoever, of transgression prooved. I am of opinion that the word originall signifieth a forfeiture, or an amerciament, and that it is much transformed in the writing, by misprision and ignorance of Clearks : thinking it very probable, that it proceedeth from the Germane verbe *Befchaffen*, which is as much as *fisco addicere vel confiscare*. It seemeth by the former Anthours to be tearmed a freedom or liberty ; because hee that hath this word in any Charter or Grant, hath not onely the forfeitures and amerciaments of all others, within his fee for transgressions, but also is himselfe free from all such contolle of any within that compassse.

Abjuratio (*abjuratio*) signifieth in our common law a sworne banishment, or an oath taken to forsake the realme for ever. For as *Statynf. pl. Cor. lib. 2, ca. 40*, sayth out of *Polydore Virgils 11 booke of Chronicles*, the devotion toward the Church, first in Saint Edward a Saxon King, and so consequently in all the rest, until *anno 22 Henr. 8*, was so earnest, that if a man having committed felony, could recover a Church or Church-yard, before hee were apprehended, hee might not bee thence drawne to the usuall triall of law, but confessing his fault to

the Justices at their comming, or to the Coronor before them or him, give his oath finally to forsake the Realme. Of this you may reade a touch, *anno 7 Henr. 7, cap. 7*. But the forme and effect of this you may have in the old Abridgement of Statutes, *titul Abjuration, num. 3.* taken out of the ancient Tractate, intituled *De officiis coronatorum*, as also in *Cromptons Tractate of the office of the Coronor, fol. 206 b.* and in the new booke of Entries, *verbo Abjuratiōn* : and in *Andrew Horns Mirrour of Justices, lib. 1, cap. de office del Coronor*. This part of our Law was in some sort practised by the Saxons, as appeareth by the Lawes of King Edward, set out by Master Lambert, *num 10*. but more directly by the Normans, as is evident by the grand Custumary, *ca. 24*. where you have these words in effect, He that flieth to a Church or holy place, may stay there for eight dayes, and at the ninth day hee must be demaunded, whether hee will yeeld himselfe to secular Justice, or hold him to the Church : for if he will, he may yeeld himselfe to the lay Court, If he cleave to the Church, hee shall forswear the Countrey before the Knights and other people of credit, wh ch may witnessse the act, if need require. The forme of the Oath is likewise there set downe, with the

the rest of the proceeding in this matter, very agreeable with ours. This mercy as well of the Saxons as Normans derived unto us, something resemblmeth that of the Romane Emperours toward such as fled to the Church, *lib. i. C. titulo 12*, or to the images of themselves, *codem, titulo 25*. And also that of Moses touching the Cities of refuge, *Exod. cap. 21, vers. 13. Num. ca. 15, vers. 6, 11, 12. Dent. 19, vers. 2. Jos. 20, vers. 2.* But as it was in our auncelours dayes larger by great oddes, in this Realme, so had it lesse reason, as it may appeare to all that will compare them. Of all circumstances belonging to this abjuration, you may further reade the new Tearmes of law, *Stawnford ubi supra*, and such others. But this grew at the last upon good reason, to be but a perpetuall confining of the offendour to some sanctuary; wherein, upon abjuration of his liberty and free habitations, hee would choose to spend his life; as appeareth, *anno 22 Hen. 8, ca. 14.* And this benefit also by other statutes is at the last wholly taken away. So that abjuration at this day hath place but in few cases: And if it bee inflicted upon any, it is not a confining to a Sanctuary (for there bee no sanctuaries remaining amongst us) but a sworne banishment of the Kings Dominions.

This the Civilians call *exilium*, or *deportationem*, *li. 28 Digest. tit. 22, de interdictis, relegatis, & deportatis.*

Abridge (*abbreviare*) commeth of the French *abreger*, and in one generall language signifieth as much as to make shorter in words, holding still the whole substance. But in the common Law it seemeth (at the least for the most part) to bee more particularly used for making a declaration or count shorter, by subtracting or severing some of the substance therein comprised. As for example, a man is said to abridge his plaint in an Affise, or a woman her demaund in an action of Dower, that hath put into the plee or demaund, any land not in the tenure of the tenant or defendant: and finding that by his answer, raseth those parcels out of the plee, praying answer to the rest. So that heere Abridger is not *contrahere*, but rather *subtrahere*. Tearmes of the Law: *Brooke, titulo Abridge-ment: and anno 21 Hen. 8, ca. 3.* Of this the Civilians have no use, by reason of certaine cautious clauses, they ordinarily have at the end of every position or article of their libel or declaration to this effect: *& ponit conjunctim, divisim et de quolibet, et de talis et tanta quantitate vel summa qualis & quanta per confessionem partit ad-*

*verso, vel per prob:tiones legitimas
in fine litis apparet.* And againe,
in the conclusion of all : *Non a-
stringens, se ad singul: probanda,
sed petens, ut quatenus probaverit
in premisis, aut eorum aliquo, ea-
tenus obtineat,* by vertue of which
clauses the Plaintiff faileth not in
the end by any over or under de-
mand, neither is driven to begin
his action againe, but obtaineth
for so much as hee prooveth to bee
due, though not to the heighth of
his demand.

*Abridgement (abbreviamentum)
see Abridge.*

A cedas ad Curiam, is a writ
that lieth for him, who hath
received false judgement in a
Court Baron, being directed to
the Sheriffe, as appeareth by
Dyer. f. 169. n. 20. Like as the writ
De falso judicio, lieth for him that
hath received false judgement in
the county court: the form where-
of you may see in *Fitz. nat. br. fol.
18. d.* and in the Register, *fol. 9. b.*
where it is said, that this writ lyeth
for justice delayed, as well as falt-
ly given. It is a species of the writ
called (*Recordare*) Register origi-
nall, *fol. 5. b.* and *Fitz. ubi supra.*

Accedus ad Vicecomitem is a
writ directed to the Coroner,
commanding him to deliver a
writ to the Sheriffe, that having a

*pone) delivered unto him, doth sup-
presse it.* *Regist. orig. fol. 83.*

*Accessory (Accessorium vel Ac-
cessorium)* is used in our common
law, otherwise then among the
Civilians. For whereas with them
it is generally taken for any thing
depending upon another: here
though it be so likewise, yet most
commonly and notoriously it
signifieth a man that is guilty of
a felonious offence, not principally,
but by participation: as by
commandment, advice, or conceal-
ment. And a man may be accesso-
ry to the offence of another after
two sorts: by the common law, or
by statute: and by the common law
two wayes also: that is, before or
after the fact. Before the fact, as
when one commandeth or adviseth
another to commit a felony, and
is not present at the execution
thereof. For his presence ma-
keth him also a pr incipall: where-
fore there cannot bee an accesso-
rie before the fact in man-slaugh-
ter, because man-slaughter is so-
daine and not prepesed, *Cooke,
lib. 4. fol. 44. a.* Accessory after the
fact, is when one receiveth
him, whom he knoweth to have
committed felonie. Accessorie
by statute is hee that abbetteth,
counselfeth, or hideth any man
committing or having commit-
ted an offence made felony by
statute. For though the statute
make no mention of abet-
tors,

tours, &c. yet they are by interpretation included. Of all these consult with *Stawnf. pl. cor. lib. 1. cap. 45, 46, 47, 48.* There is also an accessorie of an accessory, as hee that wittingly receiveth an accessorie to felonie, *lib. Assis. 26. pl. 51. Coron. Fitzb. 197. Stawnf. pl. cor. lib. 1. cap. 48.* And the law of England is, that so long as the principall is not attainted, the accessorie may not be dealt with, *Stawnf. ubi supra.* The reason whereof you may see, *Cooke lib. 4. fol. 43. b.* And this is also true by the civill Law. *Claudius de Battandier in pract. crim. regula. 101.* at the least untill the principall bee certainly knowne. Of this subject reade *M. Cromptons Justice fol. 37. b. 38, 39.*

Acceptance, is a receiving of a rent, whereby the receiver bindeth himselfe for ever to allow a former fact done by another, whether it be in it selfe good or not, New termes of law.

Accompt (*computus*) Is in the Common law taken for a writ or action brought against a man, that by meanes of Office or busynesse undertaken, is to render an account unto another: as a bailife toward his Master, a guardian in socage toward his ward, and such others, as you shall finde particularly named by *Fitz.* in his *natur. bre. fol 116.* where you may also

have the forme and further use of this Writ. See *ex parte talis.*

Accroche. See *Encroachment.* This word Accroche is used. *ay. no 25. Ed. 3. Stat. 3. cap. 8.*

Achat, commeth of the French (*achet. i. emptio, nundinatio*) and is used for a contract or bargaine. *Broke tit. Contract.*

Acquitall, signifieth in our common Law most ordinarily a deliverance and setting free from the suspicion or guiltinesse of an offence: and is twofold: acquitall in law, or acquitall in fact. Acquitall in law is, when two be appealed, or endicted of felonie, one as principall, the other as accessorie, the principall being discharged, the accessorie by consequent is also freed. And in this case as the accessorie is acquitted by law, so is the principall in fact, *Stawnf. pl. cor. fol. 168.*

Acquittance (*acquittantia*) commeth from the French (*quitter* or *quitter. i. accepto ferre, or quittance. i. acceptitario, apocba*) and signifieth a release or discharge from a debt formerly due. But the verbe (*acquiter*) the participle (*acquited*) and the nowne (*acquitall*) signifie also a discharge or clearing from an offence objected, as: acquitted by proclamation, *Smith de Rep. Angl. pa. 76. Stawnf. pl. cor. fol. 168. Broke tit. Acquitall.* See the new Termes of Law. *verbo, Acquitall and Acquittance.*

Acquitandis plegia, is a Writ lying for a suretie against the creditour that refuseth to acquite him, after the debt is paid by the Debtor, Register orig. fol. 158. where it appeareth that this is a Justicies.

Acre (*acre*) is a certaine quantitie of land containing in length 40. perches, and foure in breadch, or to that quanritie, bee the length more or lesse. And if a man erect any new Cottage, bee must lay 4 acres of land to it after this measure, anno 31. Eliz. cap. 7. and with this measure agreeeth Master Crompton in his Jurisdiction of Courts, fol. 222. though bee say also, that according to the divers customes of divers Countries the Perch differeth, being in some places and most ordinarily, but 16. foot *dimid.* But in the Countie of Stafford 24. foote, as was adjudged in the Case betweene Sir Edw. Aston, and Sir John B. in the Exchequer. In the Statute made of sowing of Flax, anno 24. H.8. cap. 4. eight score Perches make an acre, which is 40. multiplied by 4. See also the ordinance of measuring of land, made anno 34. Ed. I. statut. 1. which agreeeth with this accompt. The word (*Acre*) seemeth to come from the Germane word (*acker*) which is all one with the Latine (*ager*.)

Action (*actio*) is defined by

Bracton lib.3. cap. 1. as it is by Justinian, lib. 4. Institut. titulo de actionibus, viz. *Actio nihil aliud est quam ius persequendi in judicio quod alicui deberur.* Action is principally divided by Justinian, in personalem & realem: by Bracton, into personall, reall, and mixt: action personall is that, which belongeth to a man against another by reason of any contract, offence, or cause of like force to a contract or offence made or done by him or some other, for whose fact hee is by law to answer Bract. lib. 3. ca. 3. nn. 2. Action reall is defined to be that which is given to any man against another, that upon any cause possesseth or occupieth the thing required or sued for in his owne name, and none other mans: and in this onely respect, that hee possesseth or occupieth the thing, and none other. Bract. ibid. nn. 3. and his reason is this: *quia habet rem vel possidet, quam restituere potest vel dominum nominare.* This definition and reason hee farther exemplifieth in the words there following, which hee that will may read at large. Action mixt is that which lyeth as well against or for the thing which wee seeke, as against the person that hath it: and is called mixt, because it hath a mixt respect both to the thing & the person. Bract. lib. 3. cap. 3. nn. 5. For exam-

example, the division of an inheritance between co-heires or co-partners, called in the civil law (*actio familiæ exercitanda*:) secondly, the division of any particular thing being common to more, called likewise (*actio de communione dividenda*:) this kind of action (saith Bratton) doth seeme to be mixt, because it lyeth as well against the thing, as the person: and indeed so doe other excellent Civilians, as Guiscius and Wensembeus in their Paratitiles. *ni facium regund*. And though Justinian in his first division omitteth the third member yet afterward in the same title, §. 20. he saith as these men doe, viz. that there be certaine actions (naming these and other of like nature) that seeme to have a mixture, &c: Of this you may also read Bratton at large in his chapter 71. And this division of action springeth from the object or matter, whereabout it consisteth, *Wesemb. parat.* *ni de actis. & obligi*. The author of the new Tarmes of Law defineth a mixt action to be a suite given by the law to recover the thing demanded, and also the damages for wrong done: as in A*sse of novel disseisin*: the which writ, if the disseisor make a feoffment to another, the disseisor shall have redēdie against the disseisor and the feoffer, or other land tenant, to recover not

only the land, but the damages also. See the rest. These words occasion me to shew, that *actio* is by the civill law called *mixta* in two respects: *Nam quedam iuste sunt, quod in se, & actionis in rem, & actionis personalis naturam habent, & in iis, & aliorum rebus uterque sit, i. actionis verbo. q. fina π. de obliga. & actio.* Tales sunt *actio familiæ ericis. communi dividari. & finium regum. quedam vero iuste sunt quod rem simili & personam persequantur, ut in alieno vi bonorum rapt. legis aquilia, & ea que datur contra eos qui legata vel fidei commissâ sacrosanctis Ecclesiis reliqua salvare distulerint.* And of this latter sort is the example that the said Author bringeth of a mixt action.

The **Action**, is also by the Civilians divided, of the efficient cause, in **civilem & pretoriam**. Whereof the one riseth out of the common civill law, the other from some edict of the Pretour. Who being chiefe Justicer, had authoritie for his yeare, to supply the defects of the generall law by his especiall edicts. And a division not unlike this may be made in the common law of England, one growing from the ancient customarie law; the other from some statutes. **Brooke. tit. Action sur le statut.** in **Anglia. lib. 1. cap. 1.**

Action of the finall cause, is
divided into civil, penal, & mixt.

Coke vol. 6. fol. 61, 2. Action civile is that, which tendeth onely to the recovery of that which by reason of any contract or other like cause, is due unto us: as if a man by action seeketh to recover a summe of money, formerly lent, &c. Action penall is, that aimeth at some penalty or punishment in the partie sued, be it corporall or pecuniarie. As in the action legit Aquitania in the civile law: whereby in our common law the next friends of a man feloniously slaine or wounded, shall pursue the law against the murtherer, or him that wounded him, to condigne punishment. *Braes li. 3. ca. 4.* Action mixt is that, which seeketh both the thing whereof we are deprived, and a penalty also for the unjust deteyning of the same: as in an action of title upon the statute.

anno 2. & 3. Ed. 6. ca. 13. Action is also, according to the forme of petition, divided into such as are conceived to recover either the simple value of the thing chalenged, or the double, the triple, or quadruple. *Braes li. 3. ca. 3. m. 6.* So doth Decius iustum lie against embracers. *Fitzab. nat. br. fo. 171.* and against jurores that take money for their verdict of one part, or the other, or both. And to be short, any other action upon a statute that punisheth any offence by restitu-

tion, or fine proportionable to the transgression.

Action is prejudiciale (otherwise called preparatorie) or else principall: prejudiciale is that which groweth from some question, or doubt in the principall: as if a man sue his younger brother for land descended from his father, and it be objected unto him that he is a bastard. *Braes li. 3. ca. 4. m. 6.* For this point of bastardie must be tryed before the cause can farther proceed, and therefore is termed prejudiciale, quia prius judicandu.

Action is either auncientrell, or personall. *Statvs. pleas. 5. 9.* Auncientrell seemeth to be that, which we have by some right descending from our Auncester upon us: and that personall, which hath the beginning in and froin our selves.

Action upon the case (*actio super case*) is a generall action given for redresse of wrongs done without force against any man, and by law not especially provided for. For where you have any occasion of suit, that neither hath a fit name, nor certaine forme already prescribed: there the Clerkes of the Chauncery in auncient time conceived a fit forme of action for the fact in question which the Civilians call *actionem in factum*, and our common Lawyers action upon the case

case. *In factum actiones dicuntur ideo, quia quod nomine non possunt exprimere negotium, id nisi geste e-narratione declarant circa formulam ac solemnitatem illam: Cuiacius & Gotobredus ad Rubricam de prescriptis verbis.* And whereas in the civile law there are two sorts (*actionis in factum*) one termed *actio in factum ex prescriptis verbis*, the other *actio in factum pretoria*. *Wesemb. parat. de prescrip. verb.* the former growing upon words passed in contract, the other more generally upon any fact touching either contract or offence formerly not provided against, this action upon the case seemeth in use to be more like to the Pretours *action in factum*, than to the other: because in the perusal of the new booke of enties, and *Brookes* his abridgement hereupon, I perceive that an action upon the case lieth as well against offences, as breach of contract. Of this see more in the word *Trespas*.

Action upon the statute (actio super statuto) is an action brought against a man upon breach of a statute: to be resembled in mine opinion to any action given in the law imperiall, either upon *editum pretorii*, *plebiscitum* or *senatusconsultum*. For as the Pretour, so the common people in *comitiis tributis*, and the Senators or nobility in *curia et senatu*, had

power to make lawes, whereupon the Pretour or other Judges permitted action. And even so our high Court of Parliament maketh statutes against such offences, as are either newly grown, or more and more increased: and our Judges entertain their plees, that commence actions against the breakers of them.

Action is perpetuall or temporall (*perpetua vel temporalis*) and that is called perpetuall, the force whereof is by no time determined. Of which sort were all civill actions among the auncient Romanes, *viz.* such as grew from lawes, decrees of the Senate, or constitutions of the Emperors: whereas actions granted by the Pretor, died within the yeare, *et perpet. & tempor. alio. in instant.* So wee have in England perpetuall and temporarie actions: and I thinke all may be called perpetuall, that are not expressly limited. As divers Statutes give actions, so they be pursued within the time by them prescribed, namely, the Statute *anno 1. Ed. 6. cap. 1.* giveth action for 3. yeaeres after the offences therin shall be committed, and no longer: and the Statute *anno 7. H. 8. cap. 3.* doth the like for foure yeaeres, and that *anno 31. Eliz. cap. 5.* for one yeaere and no more. But as by the civill Law no actions were at the last so perpetuall,

tuall, but that by time they might be prescribed against : as *actio in rem decem aut. viginti terminatur annis, personales vero triginta.* *§. 1. de perpet. & temp. actio in Institutio. & l. 3. Co. de prescript. 30. annorum :* so in our common law, though actions may bee called perpetuall in comparison of those that be expressly limited by statute : yet is there a meanes to prescribe against reall actions within five yeares, by a fine levied, or a recoverie acknowledged, as you may see farther in the word, Fine, and Recoverie. And for this also looke Limitation of assise.

Action is farther divided, in *actionem bone fidei & stricti juris.* Which division hath good use in our common law likewise, though the tearmes I finde not in any of their writers. But of this, and such like divisions, because they have as yet no apparent acceptance amongst our Lawyers, but onely a hidden use, I referre the reader to the Civilians, and namely to *Wesensb.* in his Paratitiles. *π. De obligatio. & actio.*

Addition (*additiv*) is both the English and French word made of the Latine, and signifieth in our common Law a title given to a man over and above his Christian and surname, shewing his estate, degree, occupation, trade, age, place of dwelling, &c. For the use wherof in originall writs

of actions personally, appeals, and indictments, it is provided by Statute *an. 1. H. 5. cap. 5.* upon the penaltie therein expressed. Tearmes of the law. Broke farther addeth, that it is likewise requisite in townes, and gates of townes; parishes in great townes and cities, where there may bee any doubt, by reason of more townes, gates, or parishes of the same name, *titulo Additionis.* See also *M. Cromptons Justice of peace.* fol. 95, 96.

* *Adeling* was a word of honour among the *Angles*, properly appertaining to the Kings children, whereupon King *Edward* being himselfe without issue, and intending to make *Eadgore* (to whom hee was great Uncle by the mothers side) his heire to this Kingdome, called him *Adeling.* *Roger Hovedine; parte poster. susrum Annal. fol. 347. a.*

Adjournment (*adjournamen-*
tum) is almost all one with the French (*adjourement. i. denuncia-*
tio et el diei dictio) and signifieth in our common law an assignement of a day, or a putting off untill another day, *Adjournment in eyre,* (*anno 25. Ed. 3. Statute of pur-veyers, cap. 18.*) is an appoint-
 ment of a day, when the Justices in eyre meane to sit againe. *Adjourn. anno 2. Edm. 3. cap. 11.* hath
 the like signification. And the
 whole title in Broke his abridge-
 ment

ment proverth the same. The bastard Latine word (*adjuramenti*) is used also among the Burgundians, as *M. Skene* nooth in his booke *Desserbe signis. verbo. Adjurans*, out of *Cassaneus de consuet. Burg.*

Ad inquirendum, is a writ judicall, commanding inquirie to be made of any thing touching a cause depending in the Kings court, for the better execution of justice, as of bastardie, of bondmen, and such like: whereof see great diversitie in the Table of the Register judiciall, *verbo. Ad inquirendum.*

Admeasurament (*admensuratio*) is a writ, which lyeth for the bringing of those to a mediocritie, that usurpe more then their part. And it lyeth in two cases: one is tearmed admeasurement of dower (*admensuratio dotis*) where the widow of the deceased holdeth from the heire or his guardian more in the name of her dower, then of right belongeth unto her. *Register orig. fol. 171. a. Fitzb. nat. br. fol. 148.* The other is admeasurement of pasture (*admensuratio pasture*) which lieth betweene those, that have common of pasture appendant to their free-hold, or common by vicenage, in case any one of them, or more, doe surcharge the common with more cattell then they ought,

Register orig. fol. 156. b. Fitzb. nat. br. fol. 125.

Administrator (*administrator*) in our common law is properly taken for him, that hath the goods of a man dying intestate, committed to his charge by the ordinary, and is accountable for the same, whensoever it shall please the ordinarie to call him thereunto. I fyde not this word so used in all the civil or canon law, but more generally for those, that have the government of any thing, as the Decrees. *C. 23. quæst. 5. c. 26. Administratores plane secularium dignitatum, &c.* and extraua. *com. ca. 11. Grangias autem, & alia loca Cisterciensium ordinis, & aliorum Regalium, in quibus Gubernatores, seu custodes vel administratores ponuntur, &c.* Howsoever the signification of this word grew to be restrained amongst us, it greatly beoteth not. But there was a statute made anno 31. *Ed. 3. ca. 11.* whereby power was given to the ordinarie to appoint these administrators, and to authorize them as fully as executors, to gather up, and to dispose the goods of the deceased: alway provided, that they should be accountable for the same, as executors. And before that, *viz. Westm. 2. anno 13. Ed. 1. ca. 19.* it was ordeined, that the goods of those that died intestate, should be committed to

the ordinarie his disposition, and that the ordinarie should bee bound to answer his debts, so far forth as the goods would extend, as executors. And I perswade my selfe that the committing of this burden unto Bishops, and to those that derive ecclesiasticall authoritie from them, grew first from the constitution of *Leo the Emperour Co. de Episco. & cleri. sub-licenti.* 28. Where it is said, that if a man dying, bequeath any thing to the redeeming of captives, &c. and appoint one to execute his will in that point, the partie so appointed shall see it performed: and if hee appoint none to doe it, then the Bishop of the Citie shall have power to demand the legacie, and without all delay performe the will of the deceased.

Admirall (Admiral) cometh of the French (amerall) and signifieth, both in France and with us, an high officer or magistrate that hath the government of the Kings navie, and the hearing and determining of all causes, as well civill as criminall belonging to the sea. Cromptons divers iuris. fo. 88. and the statutes anno 13. R. 2. c. 5. & anno 15. ejusdem ca. 3. & an. 2. H. 4. ca. 11. & anno 2. H. 5. ca. 6. & an. 28. H. 8. ca. 15. with such like. This officer is in all Kingdomes of Europe that border upon the sea: and his autho-

ritie in the Kingdome of Naples is called, *magni Curia Admiraria quae habet jurisdictionem in eos qui vivunt ex ante mari. Vincent. de Espanch. descs. 14. m. 1.* This Magistrate among the Romanes was called *praefectus classis*, as appeareth by *Tully in Verrem.* 7. but his authoritie was not continuall, as the Admirals is in these dayes, but onely in time of warre. Neither doe I finde any such officer belonging to the Emperours in our Code. And *M. Gwin* in the preface to his reading, is of opinion that this office in England was not created untill the dayes of Edward the third: His reason is probable. *Bristow* that wrote in *Edw.* the firsts time, and in the beginning of his booke taking upon him to name all the courts of Justice, maketh no mention of this Court or Magistrate. And againe *Richard* the second finding the Admirall to extend his jurisdiction over farre, ordeined by statute made the 10. yeare of his reigne, that the limits of the Admirals jurisdiction should be restrained to the power hee had in his grandfather *Edward* the thirds dayes, whereby the said *Master Gwin* conjectureth that hee did nought else but reduce him to his originall. But contrarily to this it appeareth by auncient records, the copies whereof I have seene, that not onely in the dayes of *Ed.*

Ed. the first, but also of King John, all causes of Merchants and Mariners, and things happening within the stodde marke, were ever tried before the Lord Admirall.

Ad judicium Regis, is a writ for the Kings Clearke against him that seeketh to eject him to the prejudice of the Kings title in the right of his Crown. Of this you may see divers formes upon divers casets Register orig. fo. 61. a.

Admittenda clericis, is a writte granted to him that hath recovered his right of presentation against the Bishop in the common bank: the forme whereof read in Fitzb. nat. br. fo. 38. and the Register orig. fol. 33. a.

Admittenda in sciam, is a writ for the association of certaine persons to Justices of assizes formerly appointed, Register orig. fol. 206. a.

Ad quod damnum, is a writ that lyeth to the escheater to inquire what hurt it will be to the King, or other person, to grant a Faire or Market, or a mortmaine for any lands intended to be given in fee simple to any house of religion, or other body politicke. For in that case, the land so given is said to fall into a dead hand, that is, such an estate and condition, that the chiefe Lords doe lese all hope of heriots, service of court, and escheates upon any traite-

rops or felonious offence committed by the tenant. For a boodie politicke dieth not, neither can performe personall service, or commit treason or felonie, as a singular person may. And therefore it is reasonable, that before any such grant be made, it should be knowne, what prejudice it is like to worke to the graunter. Of this reade more in Fitzb. nat. brev. fol. 21. and looke Ad mortuam.

Ad terminum qui praterit, is a writ of entrie, that lyeth in case where a man having leased lands or tenements for terme of life or yeares, and after the terme expired, is held from them by the tenant, or other stranger that occupieth the same, and deforseth the leassour. Which wrt belongeth to the leassour and his heire also, Fitzb. nat. br. fol. 201.

Adventus (*adventus*) is a certaine space of time comprising a moneth or thereabout, next before the feast of Christs nativitie. Wherein it seemeth that our ancestors reposid a kind of reverence for the nearenesse of that solemn feast: so that all contentions in law were then remitted for a season. Whereupon there was a statute ordained, Westm. 1. cap. 48. anno 3. Ed. 1. that notwithstanding the said usuall solemnitie and time of rest, it might be lawfull in respect of justice

justice and charitie, which ought at all times to be regarded) to take assises of *novell disseisin*, *mort d' auncester*, and *darrein presentment*, in the time of Advent, Septuagesima, and Lent. This is also one of the times, from the beginning whereof unto the end of the Octaves of the Epiphany, the solemnizing of marriage is forbidden, by reason of a certaine spirituall joy that the Church, and so consequently every member thereof, for that time, doth or ought to conceive in the remembrance of her Spouse Christ Jesus, and so abandon all affections of the flesh. See *Rogation week*, and *Septuagesima*.

Advocatione decimorum, is a writ that lyeth for the claime of the fourth part or upward, of the tythes that belong to any Church, *Register orig. fol. 29. b.*

Advow, alias *avowe* (*advocare*) comemeth of the French (*advoñer*, alias *avoner*), and signifieth as much as to justifie or maintaine an act formerly done. For example, one taketh a distresse for rent or other thing, and he that is destrained, sueth a Replevin. Now he that tooke the distresse, or to whose use the distresse was taken by another, justifying or maintaining the act, is said to avowe. *Tearmes of the Law*. Heereof commeth *advowant*, *Old. nat. br. fol. 43.* and *advowrie*, *codam folio.*

Braetm useth the Latine word in the same signification, as *aduocatio disseisire* li. 4 cap. 26. And I find in *Cassius de consuet. Burg. pag. 1210.* (*advobare*) in the same signification, and pag. 1213. the Substantive (*desavobamentum*) for a disavowing or refusall to avowe.

Advowzen (*advocatio*) signifieth in our common law a right to present to a benefice, as much as *jus patronatus* in the canon law. The reason why it is so termed, proceedeth from this, because they that originally obtained the right of presenting to any Church, were maintainers and upholders, or great benefactors to that Church, either by building or increasing it: and are thereupon termed sometime *patroni*, sometime *Advocati*, cap. 4. & cap. 23. *de jure patronatus in Decretal.* And *advowzen* being a bastardly French word is used for the right of presenting, as appeareth by the Statute of *Westm.* the second anno 13. Ed. 1. ca. 5.

Advowsen is of two sorts: *advowsen in grasse*; that is, sole or principall; not adhering or belonging to any maner as parcell of the right thereof: *advowzen dependant*, which dependeth upon a manor as appertinent unto it, termed of *Kitchin* an incident, that may be separated from the subject. Of this *M. John Skene de*

de verbo sig. hath these words : *dicitur advocatio Ecclesie, vel quis patronus alicujus Ecclesie ratione sui juris advoeat se ad eandem Ecclesiam, & assertit se in eadem habere jus patronatus, tamque esse sui quasi clientis loco, vel potius cum aliquis (nempe patronus) advoeat alium jure suo ad Ecclesiam vacantem, cumq[ue] loco alterius (veluti defuncti) presentat & quasi exhibet.* See *Advowee* next following :

Advowee, alias *avowee* (*advocatum*) is used for him that hath right to present to a benefice, *an. 25. Ed. 3. stat. 5. ca. unico.* There have you also (*Advowee paramount*) which is as much as the highest patron, and is spoken of the King. *Advocatus est ad quem pertinet jus ad vocacionis alicujus ecclesie, ut ad ecclesiam, nomine proprio non alieno, possit presentare.* *Fletal. 1.5. ca. 14. §. 1. Fitz.* in his *nat. br. fo. 39.* useth it in the same signification. See *Advouſen*, and *Avowee*.

Estate probanda, is a Writ that the Kings Tenant holding in chiefe by chivalrie, and being ward by reason of his nonage, obtaineth to the eschetur of the Countie where he was borne, or some time where the land lyeth, to enquire, whether he be of full age to have delivery of his lands into his owne hand. *Register orig. fo. 294. & 295. Fitzb. nat. br. fo. 253.* who also *fo. 257.* saith that this writ is sometime directed to

the Sheriff to empanell a Jury, for this is inquiry against a day certaine, before Commissioners authorized under the broad Seale to deale in such a cause.

Aerie of Goshawkes (*aeria accipitrum*) commeth from the French (*aiere*) signifying so much as (*par*) in Latine, or (*a paire*) in English. For the French man saying that one is (*un houme de boun aiere*) signifieth that he commeth of a good paire, that is, a good father and a good mother. It is in our Language the proper word in Hawkes, for that which wee generally call a nest in other birds. So is it used *anno 9. H. 3. c. 13.* in the charter of the forest, and in divers other places.

Affeerours (*afferatores, alias affidati*) may probably bee thought to proceed from the French (*affier. i. confirmare, affirmare.*) It signifieth in our common Law, those that be appointed in Court leets, &c. upon oath to mulct such as have committed faults arbitrably punishable, and have no expresse penaltie set downe by statute. The forme of their oath you may see in *Kitchin, fo. 46.* The reason of this appellation may seeme to bee, because they that be appointed to this Office, doe affirme upon their oathes, what penaltie they thinke in conscience the offendour hath deserved. It may likewise proba-

bly be thought, that this commeth from (*feere*) an old English word, signifying a companion, as (*gesferz*) doth among the Saxons by *M. Lamberd* testimonie, *verbo* (*contubernalis*) in his explication of Saxon words. And so it may be gathered that *M. Kitchin* taketh it. *c.a. Amercements.* fo. 78. in these words, (*Mis file amercement soit affee per pares*) where (*pares*) be put for affeerors. And there may be good reason of this, because they are in this businesse made companions and equals. You shall find this word used *anno 25. Ed. 3. st. 7. viz.* And the same Justices before their rising in every sessions, shall cause to be affeered the amercements, as pertaineth, and also to the same effect; *an. 26. H.8. ca. 6. Kitchin* fo. 78. joyneth these 3 words together as synonymes. (*Affidati, amerciatores, affourrs.* *Affidare* in the canon law is used for *fidem dare. ca. fina. de cognatio. spiritus. in Decretal. & ca. super eorum de testibus.* *Bracon* hath *affidare mulierem* for to be betrothed to a woman, *li. 2. ca. 12.* But I find in the customarie of Normandy, *ca. 20.* this word (*affourer*) which the latine interpretour expresseth by (*taxisare*) that is, to set the price of a thing, as (*estimare, indicare, &c.*) which etymologie of all the other pleaseth mee best, leaving every man to his own judgement.

Affirme (*affirmare*) commeth either of the Latine, or French (*affirmer*) it signifieth in our common law, as much as to ratifie or approve a former law, or judgement. So is the Substantive (*affirmance*) used *anno 8. H.6.c. 12.* And so is the verb *ir selfe* by *M. West.* *parte 2. symbolai, titulo, Finis. sect. 152.* And if the judgement be affirmed, &c. as also by *M. Crompton* in his divers *Jurisd.* *fo. 166.*

Afforest (*afforestarre*) is to turne ground into Forest. *charta de foresta. c. 1 & 30. an. 9. H.3.* What that is, looke more at large in *Forest.*

Affraye (*affraia*) commeth of the French (*effraier. i. horrificare, terrire*) It signifieth in our common law a skirmish, or fighting betweene two or more. *M. Lamberd* in his *cirenarcha, lib. 2. ca. 3.* saith, that it is often times confounded with an assault, but yet hee is of opinion that they differ in this, that where an assault is but a wrong to the party, an affray is a common wrong: and therefore both enquirable and punishable in a Leet. It might be said likewise, that an assault is but of one side, and an affray of two or more. I thinke this word (*affray*) to be two wayes used: one, as I have already described it: another, for a terror wrought in the subjects by any unlawfull sight of violence, or armor, &c. tending toward violence. For so is

is it used, anno 2. Ed. 3. cap. 3.

Age (etas) commeth from the French (*âge*) and signifieth in our language that part of a mans life, which is from his birth unto his last day. But it is in the common Law particularly used for those especiall times, which enable men or women to do that, which before for want of age, and so consequently of judgement, they might not do. And these times in a man be two, in a woman six. The age of 21. yeeres is tearm'd the full age, in a man the age of fourteene yeeres, the age of discretion, *Littleton lib. 2. ca. 4.* In a woman there are six severall ages observed, that severally enable her to do six severall things, *Broke Gard. 7.* First, at 7. yeare of age the Lord her father may distraine his tenents for ayde to marry her: for at those yeeres shee may consent to matrimoni, *Bracton lib. 2. cap. 36. n. 3.* Secondly, at the age of nine yeeres shee is dowable: for then, or within halfe a yeere after, is she able *promereri dotem, & virum susinere*, *Fleta lib. 5. cap. 22. Littleton li. prim. cap. 5.* which *Bracton loco citato* doth notwithstanding limit at 12 yeeres. Thirdly, at twelve yeeres shee is able finally to ratifie and confirme her former consent given to matrimoni. Fourthly, at 14. yeeres shee is enabled to receive her land

into her owne hands, and shall be out of ward, if she be of this age at the death of her Ancestor. Fifthly, at fifteen yeeres shee shall bee out of ward, though at the death of her Ancestor shee was within the age of fourteene yeeres. The reason is, because then shee may take a husband able to performe Knights service. Sixthly, at 21. yeeres shee is able to alienate her lands and tenements, *Iustit. jure com. ca. 24.* Touching this matter, take further these notes perspicuously gathered. At the age of 14. yeeres a striplin is enabled to chase his owne guardian, and to claime his land holden in socage, *Dyer fol. 162.* which *Braston* limiteth at fifteene yeeres, *li. 2. cap. 37. num. 2.* with whom *Glanville* also agreeth *lib. 7. ca. 9.* And at the age of fourteene yeeres, a man may consent to marriage, as a woman at 12. *Bracton ubi supra.* At the age of fifteene yeeres, a man ought to be sworne to keepe the Kings peace, anno 34. Ed. 1. Stat. 3. The age of 21. yeeres compelleth a man to be Knight, that hath twentie pounds land per annum in fee, or for terme of life, anno 1. Ed. 2. stat. 1. and also enableth him to contract and to deale by himselfe, in all lawfull causes appertaining unto his estate. Which untill that time he cannot, with the security of those that deale with him.

This the Lomberds settle at 18. yeeres, as appeareth by *Hincmans* disputationes in libros fenderum, l. 2. c. 53. ver. decimo octavo anno, which power the Romans permitted not usque ad plenam maturitatem, and that they limited at 25. yeeres lib. I. in fine π. de major. 25. ann. l. fin. Co. de Legit. tit. in principio, titu'o de curat. in Institut. The age of twelve yeeres bindeth to appearance before the Sheriffe and Coroner for enquirie after Robberies, ann. 52. H. 3. cap. 24. The age of 14. years enableth to enter an order of religion without consent of parents, &c. anno. 4. H. 4. cap. 17.

Age prior (*etatem precari*) or (*etatis precastio*) is a petition made in count by one in his minoritie, having an action brought against him, for lands comming to him by dissent, that the action may rest untill hee come to his full age: which the Court in most cases ought to yeeld unto. This is otherwise in the Civill law, which inforceth children in their minoritie to answer by their tutors or curatours, π. de minor. 25. an.

Agenhine. See *Hagbenhine*.

Agist (*agistare*) seemeth to come of the French *gist*. i. *jacet*) having (*giser*) in the Infinitive moode, whence commeth the nowne (*gisne*) a lying in childbed: or rather of *gister*. i. *stabulari*) a word proper to a Deare,

cum sub mensem. Mxiuum è lacis, abditis in quibus delituit emigrans in loco delecto stabulari incipit, unde commoda & propinqua sit pabulatio. *Budus* in posteriori libro philologie. Where also he saith, that (*giste*) est idem quod *Instrum vel cubile*. Or it may bee probably deduced from the Saxon word (*Gast*. i. *hostes*). It signifieth in our common law, to take in and feede the catrell of strangers in the Kings Forest, and to gather the money due for the same to the kings use, *Charta de foresta*, an. 9. H. 3. cap 9. The Officers that do this, are called (*agisters*) in English, Guest-takers, *codem* c. 8. *Cromptonis Jurisdict. fo. 146* These are made by the Kings Letters patents under the great Seale of England: of whom the King hath foure in number within every Forest, where he hath any pawnage, called *agisters*, or *Gist-takers*. And their office consisteth in these foure points: (*in agistanda, recipiendo, imbreviando, certificando*) *Manwood parte prima*. Of Forest lawes, p. 336. & 337. whom you may reade more at large. Their function is tearmed Agistment, as agistment upon the sea banks, anno 6. H. 6. cap. 5.

Agreement (*agreementum*. i. *aggregatio mentium*) is the assent or concord of more to one thing: & this by the Author of the new tearmes of law, is either executed

ted or executory : which you may read more at large in him exemplified by cases.

Ayde (*auxilium*) is all one in signification with the French (*ayde*), and differeth in nothing, but the only pronunciation, if we take it as it is used in our vulgar language. But in the common law, it is applied to divers particular significations, as sometime to a subsidy, *anno* 14. *Ed. 3. stat. 2. cap. 1.* sometime to a prestation due from tenents to their Lords, as toward the relief due to the Lord Paramount, *Glanvile lib. 9. ca. 8.* or for the making of his sonne Knight, or the marrying of his daughter, *idem, eodem.* This the King, or other Lord by the ancient Law of England, might lay upon their Tenents, for the Knighting of his eldest sonne at the age of 15. yeeres, or the marriage of his daughter at the age of seven yeeres, *Regist. orig. fol. 87. 1.* and that at what rate themselves listed. But the Statute *West. 1. anno. 3. Ed. 1.* ordained a restraint for so large a demand, made by common persons being Lords, in this case, and tyed them to a certaine rate. And the Statute made *anno 25. Ed. 3. stat. 5. ca. 11.* provideth, that the rate set downe by the former Statute, should hold in the King, as well as in other Lords. Of this I find mention in the Statute, *an-*

27. H.8. cap. 10. This imposition seemeth to have descended to us from Normandie : for in the grand custumary, *cap. 35.* you have a Tractat intituled (*des aides chevelz. i. de auxiliis capitalibus*) whereof the first is (*a faire l'ainé filz. de son seigneur chevalier. i. ad filium primogenitum militem faciendum*) the second, (*s'on aine fille marier i. ad filiam primogenitam maritandam.*) And the third, (*a rechaprer le corps de son seigneur de prison quand il est prius per la guerre au Duc. i. ad corpus domini sui de prisone redimendum cum captus fuerit pro bello Ducis Normandie.* Also I find in *Cassan. de consuet. Burg.* *Quod dominus accipit à subditis pro dotanda filia, pa. 122.* which seemeth to bee all one with this our imposition : and also in *Vincentius de Franchis de seis. 131.* where hee calleth it *ad-jutorium pro maritanda Filia.* Whence it appeareth, that this custome is within the kingdome of Naples also. Touching this likewise, you may reade these words in *Menochius lib. 2. de arbitrat. Jud. quæst. centuria 2. cap. 181.* *Habent sapientem feudorum possessores & Domini multa in eorum dictioribus privilegia, multisq; cum locorum incolis conventiones: inter quas illa una solet nominari, ut possit Dominus collectam illis indicere, pro solutione dictum suarum familiarum, cum matrimonio collocantur.*

Hoc aliquando Roma observatum à Caligula fuisse, in illius vita scribit Suetonius, cap. 42. Hodie hic usus in subalpina regione est frequens, ut scribit Jacobinus, de Sancto Georgio, in tractu de homagiis, col. 8. Etiam pro filia quæ religionem ingreditur: & non modo pro una filia, sed pluribus filiis, non tamen pro secundis nuptiis exigitur. In which place the said author maketh mention of divers other Civilians and Feudists, that record this custome to be in other places. Of this Ayd our Fleta writeth thus: sicut etiam quædam consuetudines que servitia non dicuntur, nec concomitantia servitiorum, sicut ratiocabilis auxilia ad filium primogenitum militem faciendum, vel ad filiam primogenitam maritandam: que quidem auxilia sunt de gratia & non de jure, pro necessitate et indigentia domini capitulin. Et non sunt predialis, sed personalis, secundum quod perpendi poterit in brevi ad hoc previso, &c.

This word (Ayd) is also particularly used in matter of pleading, for a petition made in court for the calling in of helpe from another, that hath an interest in the cause in question, and is likely both to give strength to the party that prayeth in ayd of him, and also to avoid a prejudice growing toward his own right, except it be prevented. For example, when a tenent for terme of life, by courtesie, tenent in

taile after possibility of issue extincket, for tearme of yeates, at will, by Elegit, or tenent by Statute merchant beeing impleaded touching his estate, may petere auxilium, that is, pray in ayd of him in the reversion, that is, desire or intreat the Court, that he may be called in by writ, to alledge what hee thinketh good for the maintenance both of his right and his own. Terms of the Law. Fitzherbert mentioneth both prier in ayde, and prier ayde de patrem, &c. auxilium petere à patrono, Nat. Brev. fo. 50, d. And the new booke of Entries, Verbo Ayde de partener, auxilium de partionario, fo. 411, Columna 4. This the later practitioners in the Civele Law call authoris laudationem vel uominizationem. Emeritos in prætition. titulo 48. This ayde prier is also used sometime in the Kings behoofe, that there bee no proceeding against him untill the kings Countell bee called, and heard to say what they thinke good, for the avoyding of the kings prejudice or losse, touching the cause in hand. For example, if the kings tenent holding in chiefe be demanded a rent of a common person, hee may pray in ayd of the king. Also a city or Borough that hath a fee ferme of the king, anything being demanded against them which belongeth thereunto, may pray in ayd of the

the King, &c. Terms of the law. Of this thing you may reade the statute *de ligamentis.* a. 4. Ed. 1. c. 1. 2. & 3. & ann. 14. Ed. 3. stat. 1. c. 14. The civil law in suits begun between two, alloweth a third to come in (*pro interesse*) and he that commeth in for his interest, commeth either *assistendo*, or *oppontendo*, &c. The former is like to this (*ay de prier*) the other to that which our common Lawyers call *Receste*. Looke *Receito*.

Aile (ail) commeth of the French (aile. i. ail) & signifieth a writ that lieth where the grandfather or great grandfather, called of our common lawyers (*be-saek*) but in true French (*bisaicte*) was seised in his demaines as of fee, of any land or tenement in fee simple, the day that hee dyed, and a stranger abateth or entreth the same day, and disposeseth the heire. *Fitz. nat. br.* fo. 222.

Alderman (*aldermannus*) is borrowed from the Saxon (*Ealdorman*) signifying as much as Senator in Latine. *Lamb.* in his explication of Saxon words, *verbo senator*. See *Roger Hoveden par. postur. solum, annal.* fo. 346. b.

Aler sans jour, is *verbatim*, to goe without day: the meaning whereof is, to be finally dismissed the Court: because there is no day of farther appearance assigned, *Kitchin* fol. 140.

Aler taster, is an officer ap-

pointed in every Court leet, and sworne to looke to the affle, and the goodnesse of bread and ale, or beere, within the precincts of that Lordship: *Kirchin*, fo. 46, where you may see the form of his oath.

Alias, v. Capias alias.

Alien (*alienare*) commeth of the French *aliener*, and signifieth as much as to transferre the propertie of any thing unto another man. To alien *in mortmaine*, is to make over lands or tenements to a Religious company, or other body politique: *Statut. prerog.* fo. 48. Look *Mortmaine*. To alien in fee, is to sel the fee simple of any land or tenement, or of any incorporeall right. *West. 2. ca. 25, ann. 13 Ed. 1.*

Alien, alias, alien (*alienigena*) commeth of the Latine *alienus*, and signifieth one born in a strange Countrey. It is ordinarily taken for the contrary to *Denizen*, or a naturall subiect, that is, one borne in a strange country, and never here infranchised. *Brooke, Denizen, 4, &c.* And in this case, a man borne out of the land, so it be within the limits of the Kings obedience beyond the seas, or of English parents out of the kings obedience, so the parents at the time of the birth bee of the kings obedience, is no alien in account, but a subiect to the king. *Statute 2. a. 25 Edw. 3, c. 1.*

unico, commonly called the Statute, *De natis ultra mare*. Also if one borne out of the Kings allegiance, come and dwell in England, his children (if hee beget any here) be not aliens, but denizens. Termes of the law. See Denizen.

Allaye (*Allais*) is used for the temper and mixture of silver and gold, *an. 9. H. 5. Stat. 2.c. 4. & Stat. 1. ejusdem anni, cap. 11.* The reason of which allay is, with a baser metall to augment the waight of the silver or gold so much, as may countervale the Princes charge in the coining. *Antonius Faber. de nummariorum debitorum solutionibus, cap. 1.*

Allocatione facienda, is a writ directed to the Lord Treasurer, and Barons of the Exchequer, upon a complaint of some accountant, commanding them to allow the accountant such summes, as hee hath by vertue of his office lawfully and reasonably expended, *Regist. orig. fol. 206.b.*

Alluminor, seemeth to be made of the French (*allumer. i. accendere, incendere, inflammare*) it is used for one that by his trade coloureth or painteth upon paper or parchment. And the reason is, because he giveth grace, light, and ornament by his colours, to the letters or other figures coloured. You shall find the word, *an. 1. R. 3. ca. 9.*

Almaine rivets, bee a certaine light kind of armor for the body of a man, with sleeves of maille, or plates of iron for the defence of his armes. The former of which words, seemeth to shew the countrey where it was first invented: the other, whether it may come from the French verbe (*revestir, i. super-induere*) to put on upon another garment, I leave to farther consideration.

Almainer (*eleemosinarius*) is an officer of the Kings house, whose function is, fragmenta diligenter colligere, & ea distribuere singulis diebus egenis: agrotos & leprosos, in carcерatos, pauperesq; viduas, & alios egenos vagosq; in patria com-morantes, charitable visitare: item equos reliticos, robas, pecuniam, & alia ad eleemosynam largita, recipere & fideliter distribuere. Debet etiam regem super eleemosyne largitione crebris summonitionibus stimulare, & precipue diebus Sandorum, & rogare ne robas suas que magni sunt preizi, histriionibus, blan-ditoribus, adulstoriibus, accusatori-bus & menestrallis, sed ad eleemo-sina sua incrementum jubeat largiri, *Fleta. lib. 2. cap. 22.*

Almoine (*eleemosina*) See Frank almoyn.

Almond (*amygdalum*) is well knowne to every mans sight: it is the kernell of a nut or stone, which the tree in Latine called (*amygdalus*) doth beare with-

within a huske in manner of a walnut, of whose nature, and diversities, you may reade *Gerards Herbal*, lib. 3. cap. 87. This is noted among Merchandize that are to be garbled, anno 1. *Jaco.* cap. 19.

Amegeor, alias, aulnegeor (ulniger velutinator) commeth from the French (*ameule*) an elle, or elwand, and signifieth an Officer of the Kings, who by himselfe or his Deputie, in places convenient, looketh to the Assise of woollen cloth made through the land, and to seales for that purpose ordained unto them, anno 25. *Ed. 3. Stat. 4. cap. 1.* anno 3. *R. 2. cap. 2.* who is accomptable to the King for every cloth so sealed in a fee or custome thereunto belonging, anno 17. *R. 2. cap. 2.* Reade of this more, anno 27. *Ed. 3. cap. 4.* anno 17. *R. 2. cap. 2. & 5. anno 3. H. 4. cap. 13. anno 7. ejusdem cap. 10. anno 11. ejusd. cap. 6. anno 13. ejusd. cap. 4. anno 11. H. 6. cap. 9. anno 31. ejusdem cap. 5. anno 4. *Ed. 4. ca. 1. anno 8. ejusdem cap. 1. & ca. 1. R. 3. cap. 8.**

Ambidexter, is that jurour or embraceour, that taketh of both parties for the giving of his verdict. Hee forfeiteth ten times so much as he taketh, anno 38. *Edm. 3. cap. 12. Crampons Justice of Peace, fol. 156. v.*

Amendment (amendatio) commeth of the French (*amende-* *ment*) and signifieth in our com-

mon Law, a correction of an error committed in a Processe, and espied before judgement. Termes of the Law. *Broke tenuo Amendement per totum.* But if the fault be found after judgement given: then is the party that will redresse it, driven to his writ of error. Termes of the law, *Broke tenuo Error.*

Amerciament (amerciamentum) signifieth the pecuniarie punishment of an offendour against the King or other Lord in his court, that is found to be (*in misericordia*) i. to have offended, and to stand at the mercie of the King or Lord. There seemeth to bee a difference betweene amerciaments and fines, *Kitchin, fol. 214.* And I have heard common Lawyers say, that fines, as they are taken for punishments, be punishments certaine, which grow exprefly from some statute, and that amerciaments be such, as be arbitrably opposed by affeerors. This is in some sort confirmed by *Kitchin fol. 78.* in those words: (*l' amerciament est affire per pares.*) *M. Manwood* in his first part of *Foret lawes, pag. 166.* seemeth to make another difference, as if he would inferrre an amerciament to be a more easie, or more mercifull penaltie, and a fine more sharpe and grievous. Take his words: If the pledges for such a trespassse (saith he) doe appeare

by common summons, but not the defendant himselfe: then the pledges shall be imprisoned, for that default of the defendant: but otherwise it is, if the defendant himselfe doe appeare, and be ready in Court before the Lord Justice in eyre, to receive his judgement, and to pay his fine. But if such pledges doe make default, in that case the pledges shall be amerced, but not fined, &c. The Author of the new tearmes of law, saith, that amerciament is most properly a penaltie assed, by the peers or equals of the partie amercied for an offence done, for the which he putteth himselfe upon the mercie of the Lord. Who also maketh mention of an amerciament royall, and defineth it to be a pecuniarie punishment laid upon a Sheriff, Coroner, or such like Officer of the Kings, amercied by Justices for his offence. See *Misericordia*.

Annoeas manum. Looke ouster le maine.

An, tour, & waste. (annus, dies, & vastum.) Looke yeare, day, and waste.

Anealing of tile, anno 17. Ed. 4. ca. 4.

Annates, f. Annates.) seemeth to be all one with first fruits, anno 25. H. 8. ca. 20. Looke, First fruits. The reason is, because the rate of first fruits payed of spirituall livings, is after one years profit:

Of which *Polydore Virgil, de inventione rerum, lib. 8. cap. 2.* saith thus: *Nullum inventum maiores Romani Pontifici cumularunt opes, quam annatum (quas vocant) Iesus, qui omnino multo antiquior est, quam recentiores quidam scriptores suspicantur.* Et antiquis more suo appellant primos fructus unius anni sacerdotis vacantis, aut dimidiam eorum partem. Sanè hoc vestigial jam pridem, cum Romanus Pontifex non habuerit tot pōssessiones quot nūc babet, & eum oportuerit pro dignitate, pro officio, multos magnisq; facere sumptus, pauplatim impositum facit sacerdotis vocantibus quae ille conferret: de qua quidem re ut gravi, sape reclamatum fuisse testatur *Henricus Hostiensis*, qui cum *Alexandro 4. Pontifice* vixit, sic ut *Franciscus Babarellus* tradat postbac in concilio Viennensi, quod *Clemens quintus* indixit (qui factus est Pontifex anno salutis humanae, 135.) agitatum fuisse, ut, ex deposito, annatum ante vigesima pars vestigialium sacerdotialium penderetur quotannis Romano Pontifici, & id quidem frustrā. Quare Pontifex annatas in sua nefaria retainuit, ut ne incidentem exire possent: lege cetera.

Annientad, commeth of the French (annuerans, i.e. abjicere, utque prosternere.) It signifieth with our Lawyers, as much as frustrated or brought to nothing, Littleton, lib. 3. cap. mortuante.

Annuas pensionem, i.e. a writers whereby

whereby the King having due unto him an annuall pension from an Abbot or Prior for any of his Chaplaines, whom he shall think good to name unto him, being as yet unprovided of sufficient living, doth demand the same of the said Abbot or Prior for one, whose name is comprised in the same writ, untill, &c. and also willeth him, for his Chaplaines better assurance, to give him his Letters patents for the same. Register orig. fol. 265. & 307. & Fitz. nat. br. fol. 231. where you may see the names of all the Abbeyes and Priories bound unto this, in respect of their foundation or creation: as also the forme of the Letters patents usually granted upon this writ.

Annuicie (*annuus redditus*) signifieth a yearly rent to be paid for terme of life or yeares, or in fee, and is also used, for the writ that lieth against a man for the recoverie of such a rent, either out of his land, or out of his coffers, or to be received of his person, at a day certaine every yeare, not satisfying it according to the grant. Register orig. fol. 158. Fitzb. nat. br. fol. 152. The author of the new termes of Law definieth (*annuitie*) to be a certaine summe of money granted to another in fee simple, fee taile, for terme of life, or of yeares, to receive of the granter, or his

heires, so that no Free-hold be charged therewith, whereof a man shall never have assise or other action, but a writ of Annuitie. Saintgerman in his booke intituled (*The Doctor and Student*) dialogo primo, cap. 3. sheweth divers differences betweene a rent and an annuitie, whereof the first is, that every rent, be it rent service, rent charge, or rent feck, is going out of land: but an annuity goeth not out of any land, but chargeth onely the person: that is to say, the granter, or his heires that have assets by descent, or the house, if it be granted by a house of religion, to perceve of their coffers. The second difference is, that for the recoverie of an annuity, no action lieth, but onely the writ of annuitie against the granter, his heires, or successors: but of a rent, the same actions lie as doe of land, as the case requireth. The third difference is, that an annuitie is never taken for assets, because it is no Free-hold in law, neither shall be put in execution upon a Statute Merchant, Statute Staple, or Elegit, as a rent may. Dyer fol. 345. num. 2: speaketh also to this effect.

Annise seede (*semens anisi*) is a medicinall seede not unknowne, so called of the hearbe *anisum*, whereof it is the fruit. Of this hee that listeth may reade Ge-
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rards

rards herball. li. 2. c. 397. It is noted among the garbleable drugs and spices, anno 1. Jaco. cap. 19.

Annoyance, alias *Noisance*, alias *Nusance* (*nociumentum*) commeth of the French (*nuisance*. i. *inconveniens*, *noxa*) and hath a double signification, being used as well for any hurt done either to a publike place, as (high way, bridge, or common river) or to a private, by laying any thing, that may breed infection, by incroaching, or such like means: as also, for the writ that is brought upon this transgression: whereof see more in *Nusance*. The word (*annoysance*) I find, anno 22. H. 8. cap. 5.

Apostata capiendo, is a writ that lyeth against one, that having entered and professed some order of religion, breaketh out again, and wandereth the country, contrarily to the rules of his order. For the Abbot or Prior of the house, certifying this into the Chauncerie, under their common seale, and praying this writ directed to the Sheriffe for the apprehension of such offendour, and for the delivery of him againe to his Abbot or Prior, or their lawfull Attorney, were wont to obtaine the same. The forme whereof, with other circumstances, you shall find in the Register orig. fo. 71. & 267. and Fitzb. natur. br. fol. 233. C.

Apparelement, commeth of the French (*pareillement*. i. *similitudine*, *periodus*, *isidem*) and signifieth a resemblance; as apparelement of war, anno 2. R. 2. stat. 1. c. 6.

Appeale (*appellam*) commeth of the French (*appeller*. i. *accidere*, *accersere*, *nominaire*, *evocare*, *clamare*, *aliquem fugitare*). It signifieth in our common law, as much as (*accusatio*) with the civilians. For as in the civil law, cognisance of criminall causes, is taken either upon inquisition, denunciation, or accusation: so in ours, upon indictment orappeale, indictment comprehending both inquisition, and denunciation. And accusation orappeale, is a lawfull declaration of another mans crime (which by Braston must be felonie at the least in the common law) before a competent judge, by one that setteth his name to the declaration, and undertaketh to prove it, upon the penaltie that may ensue of the contrary. To declare the whole course of anappeale, were too much for this treatise. Wherefore for that, I must referre you to Braston. l. 3. tract. 2. c. 18. *sunt sequent.* Braston. ca. 22, 23, 24, 25. and to S. Thomas Smith. l. 3. de repub. Anglo. c. 3. and lastly to Stowes. pl. cor. l. 2. ca. 6, 7. &c. usq; 17. Anappeale is commenced two wayes: either by writ, or by bill, Stowes. ubi supra. fo. 46. And it may be gathered

ted by him, fol. 148. that an app-
peale by writ is, when a writ is
put balaſt out of the Chancerie
by one to another, to this end,
that he appeale a third of ſome
felonie committed by him, fin-
ding pledges that he ſhall doe it,
and deliver this writ to the She-
rieſe to be reordred. Appēale by
bill is, when a man, or himſelfe
giveth up his acuſation in wri-
ting to the Vicount or Coronet,
offering to undergo the burthen
of appealing another theremai-
ned. This point of our law, am-
ong others, is drawne from the
Norman, as appeareth plainly by
the grand Costumarie, cap. 66.
where there is ſet downe a ſole-
mne diſcource, both of the ef-
fects of this Appēale, viz. the or-
der of the combat, and of the tri-
all by enquest: of which, by the
common law of *England*, it is
in the choice of the defendant,
whether to take. See the new
book of entries, verbo *Appel.* and
the book of Aſſizes, fo. 70. Appēal.

- Appēale of maim (appellum
maiemii) is an accuſing of one
that hath maimed another. But
that being no felonie, the appēale
thereof is but in a ſort, an action
of trespass: because there is no-
thing recovered but dainimages.
Braſton calleth this (appellum de
plagis & mabemio) and writeth of
it a whole Chapter, l. 3. tract. 2. ca.
24. See S. Ed. Cook. 4. vol. fo. 43. a.

- Appēale of wrong im-
prisonment (appellum de pace & imprison-
mento) is uſed by *Braſton*, for an
action of wrong imprisonment,
wherof he writeth a whole tra-
ct. lib. 3. tract. 2. ca. 25.

Appēale (appellatio) uſed in our
common Law divers times, as
it is taken in the civill law:
which is a removing of a cause
from an inferiour Judge to a ſuperior,
as appēale to Rome, anno
24. H. 8. ca. 12. & an. 1. Eliz. ca. 1.
But it is more commonly uſed,
for the private accuſation of a mu-
rtherer, by a party who had interest
in the party murdered, or of any
felon by one of his complices in
the fact. See *Appōneſt*.

Appendant (appendens) is any
thing belonging to another, as
ſuccorium principali, with the Ci-
vilians, or adiunctū ſubjēctū, with
the Logicians. An Hospitall may
be appendant to a Manor. *Fitz.*
no. br. f. 142. Common of fishing
appendant to a free hold. *Westm.*
20. ca. 25. anno 13. Ed. 1.

Appertinances (perincenice) com-
meth of the French (appartenir. i.
pertinere.) It signifieth in our com-
mon law, things both corporall,
belonging to another thing, as
to the more principall: as hamlets
to a chiefe Mannor, common of
pasture, turbarie, pifcarie, and
ſuch like; and incorporeall, as li-
berties and ſervices of teneſts.
Bris. ca. 39. where I note by the
way,

way, that hee accounteth common of pasture, turbarie, and piscary, to be thisis corporall hooke. *Common*: it may now be nois.

Apportionment (*Appartionamen-*
tum) is a dividing of a rent into parts; according as the land, whence the whole rent issueth, is divided among two or more. See the new termes of law.

Apprentice (*Apprexitius*) com-
meth of the French (*aprenz*. i. *tyro*
& *rude discipulus*) or of the verb
(*apprendre*. i. *addiscere*; *discere*) and
signifieth with us, one that is
bound by covenant in word or
writing, to serve another man of
trade, for certaine yeares, upon
condition, that the Artificer or
man of Trade, shall in the meane
time endeavour to instruct him
in his Art or Mystrie. *S. Thomas*
Smith, in his booke *drep. Ang. I.*
3. ca. 8. saith, that they are a kind
of bond men, differing onely, in
that they be servants by cove-
nant, and for a time. Of these you
may reade divers statutes made
by the wisedome of our Realme,
which I thinke superfluous here
to mention.

Appropriation (*appropriatio*) pro-
ceedeth from the French (*appro-*prier**. i. *aptare*, *accordmndare*) and
properly signifieth, in the law of
England, a severing of a benefice
ecclesiasticall (which originally
and in nature is, *juris divini & in
patrimonio nullius*) to the proper-

and perpetuall use of some Reli-
gious house or Deane, &c. and
chapter, Bishoprick or Colledge.
And the reason of the name I
take to be this: because that
whereas persons ordinarily bee
not accounted (*domini*) but (*resu-
fructuarii*) having no right of fee
simple. *Littleton tit. Distin-
tione*: these, by reason of their
perpetuitie, are accounted ow-
ners of the fee simple, and there-
fore are called *proprietarii*. And
before the time of *Richard the
second*, it was lawfull (as it see-
meth) simply, at the least by
mans law, to appropriate the
whole fruits of a benefice to an
Abbey or Priory, they finding one
to serve the cure. But that King
made so evill a thing more tole-
rable by a law, whereby hee or-
dained, that in every license of
appropriation made in Chaunce-
rie, it should expresaely be contai-
ned, that the Diocesan of the
place should provide a conveni-
ent summe of money yearly to
be paid out of the fruits, to-
ward the sustenance of the poore
in that Parish, and that the Vicar
should be well and sufficiently
endowed, *anno 15. Rich. 2. ca. 6.*
Touching the first institution, and
other things worth the learning
about Appropriations: reade
Plowden in Grendons case, *fo. 496.*
b. & seqq. as also the new termes
of law, *verba Appropriation*. To
an

an approbation, after the licence obtained of the King in Chauncie, the consent of the Diocesan, Patron, and Incumbent are necessary; if the Church be full; but if the Church be veide, the Diocesan and the Patron upon the Kings licence may conclude it. *Pleordan ubi supr.* To dissolve an appropriation, it is enough to present a Clerke to the Bishop. For, that once done, the benefice returneth to the former nature. *Fisth. nat. lib. fol. 35. F. civi lib.*

Approuer (*appibrator.*) commeth of the French (*approver*, i. *approbare*, *comprobare*, *calculum albo adjicere*) It signifieth in our common law, one that confessing felony of himselfe, appealeth or accuseth another, one or more, to be guilty of the same; & he is called so, because hee must proove that which hee hath alleadged in hisappeale. *Statut. pl. cor. fo. 142.* And that proofe, is by battell, or by the Countrey, at his election that appealed. The forme of this accusation, you may in part gather by M. Cromptons Justice of Peace, fol. 250, & 251. that it is done before the Coroners, either assigned unto the felon by the court, to take and record what he saith, or else called by the felon himselfe, and required for the good of the Prince and commonwealth, to record that which he saith, &c. The oath of the appr-

ver, when he beginneth the combat, see also in Crompton in the very last page of his booke, as also the Proclamation by the Herald. Of the antiquity of this law, you may read somthing in Hernis *mirror of Justices*, li. 1. in fine cap. del Office del Coroners. Of this also see Bracton more at large, lib. 3. tract. 2. cap. 21. & 34. and *Statut. pl. cor. lib. 2. cap. 52. cum sequ.*

Approvers of the King (*Appratores Regis.*) be such as have the letting of the Kings Demesnes in small Mannors to the Kings best advantage, anno 5 r. H. 3. Stat. 5. See *Approuer* above.

Approver (*approure*) commeth of the French (*approver*, i. *approbare*, *comprobare*, *calculum albo adjicere*) it signifieth in the common law to augment, or (as it were) to examine to the uttermost. For example: to approve land, is to make the best benefit thereof by increasing the rent, &c. So is the Substantive (*Approvement*) used in Cromptons *Jurisdict. fol. 153.* for the profits themselves. So is it likewise in the statute of *Merton* ed. 4. anno 2. H. 3. land newly approved, *Old nat. lib. fol. 79.* So the Sheriffes called themselves the Kings approvers, anno 1. Ed. 3. cap. 8. which is as much in mine opinion as the gatherers or exactors of the Kings profits. And anno 9. H. 6. cap. 10. *Bailiffes*

Bailiffes of Lords in their franchises be called their approvers. But anno 2. Ed. 3. cap. 12. Approvers be certaine men especially sent into severall countees of the Realme, to increase the Fermes of Hundreds and Wapentakes; which formerly were set at a certaine rate to the Sheriffes, who likewise dimisched them to others, the countie Court excepted.

Approvement (*appruamentum*) see Approve, See the Register judicall, fol. 8. br. & 9. a. See the new termes of Law, *verbo* (*Approvement*).

Arbitrator (*arbiter*) may be taken to proceed from either the Latine (*arbitrator*) or the French (*arbitre*) it signifieth an extraordinarie Judge in one or moe causes, betweene partie and partie, chosen by their mutuall consents, *West. parte 2. Symbol. titu's Compromise, Sect. 21.* who likewise divideth arbitrement, into generall, that is, including all astions, quarrels, executions, and demands, and speciall, which is of one or moe matters, facts, or things specified, *edam, sect. 2, 3.* 4. The Civilians make a difference betweene (*arbitrum & arbitrarem*) *li. 76. n. pro socio.* For though they both ground their power upon the compromise of the parties: yet their libertie is divers. For *arbiter* is tyed to proceed, and judge according to

law, with equitie mingled: *arbitrator* is permitted wholly to his owne discretion, without solemnitie of processe, or course of judgement, to heare or determine the controversie committed unto him, so it be *juxta arbitrium boni viri*.

Arches court (*Curia de arcibus*) is the chiefe and ancientest Consistorie that belongeth to the Arch-bishop of *Canterbury*, for the debating of Spirituall causes: and is so called of the Church in *London*, dedicated to the Blessed Virgin, commonly called *Bow*-Church, where it is kept. And the Church is called *Bow*-Church of the fashion of the steeple or clocher thereof, whose top is raised of stone Pillars, builded Arch-wise, like so many bent bowes.

The Judge of this Court, is termed the Deane of the Arches, or the Officiale of the Arches Court. Deane of the Arches, because with this officialty, is commonly joyned a peculiar jurisdiction of thirteene Parishes in *London* termed a Deanrie, being exempted from the authoritie of the Bishop of *London*, and belonging to the Archbishop of *Canterburie*: of which the Parish of *Bow* is one and the chiefe, because the Court is there kept. Some others say, that he was first called *Deane of the Arches*, because

cause the officiaill to the Archbi-
shop, beeing many times im-
ployed abroad, in Ambassages for
the King and Realme, the Deane
of the Arches was his substitute in
his court, and by that meanes
the names became confounded.
The jurisdiction of this Judge is
ordinary, and extendeth it selfe
thorow the whole province of
Canterbury. So that upon any
appeale made, he forthwith and
without any further examination
of the cause, sendeth outhis Cita-
tion to the party appealed, and
his inhibition to the Judge from
whom the Appeal is made. Of this
he that wil may reade more in the
booke intituled, *De antiquitate ec-
clesie Britan. historie.*

Arma moluta seem to be sharpe
weapons that do cut, and not blunt
that do only break or bruise. *Braet.*
lib. 3, tract. 2, cap. 23, & *Statu[n]f. pl.*
cor. fo. 78 & 79: wherof *Braeton*
hath these words; *arma moluta pla-
gam faciunt, scut gladius, visacuta,*
*& bujusmodi: ligni verò & la-
pides brusuras, orbis, & ictus, qui*
*judicari non possunt ad plagam ad
hoc, ut inde veniri possit ad duel-
lum.*

Armor (*arma*) in the understand-
ing of our common law is exten-
ded to any thing that a man in his
anger or fury taketh into his hand,
to cast at or strike another. *Cromp-
tons Justice of peace, fo. 65 a.* So
armorum appellatio non utique scuta

*& gladios & galeas significat, sed &
fustes & lapides, lib. 42 n. de verbo
significatione.*

Array, (*arraia, alias arraiamen-
tum*) commeth of the French *Ar-
ray*, i. *ordo*, which is an old word
out of use. Or it may be wel deduced
from *raye*, i. *linea*. It signifieth
in our Common law, the ranking
or setting forth of a jury or en-
quest of men impanelled upon a
cause, a. 18 H.6, c. 14. Thence is
the verb to array a panel, *old N.B.*
fo. 157. that is, to set forth one by
another the men impanelled. The
array shall be quashed, *old Nat.Br.*
fo. 157. By statute, every array in
assise ought to be made four dayes
before. *Br. tit. Pa[n]el, n. 10,* to chal-
lenge the array, *Kitchin, fo-
lio 92.*

Arrayers seemeth to be used in
the statute, *anno 12 R.2, ca. 6,* for
such officers as had care of the
soldiers armour, to see them duly
appointed in their kinds.

Arraine (*arraniare*) commeth of
the French *arranger*, i. *astituere, or-
dinare*, that is, to set a thing in or-
der or in his place: and the same
signification it hath in our com-
mon law. For example, hee is
sayd to arraigne a writ of *Nov-
el disseisin* in a county, that fitteth
it for triall before the Justices of
the Circuit, *old Nat.brev. fo. 109.*
Littleton fo. 78, useth the same
word in the same sence, *viz.* the
lease arraineth an assise of *Novel
disseis-*

disselin. Also a prisoner is said to be arraigned, where he is indicted and brought forth to his triall. Arraigned within the verge upon murther, *Starwif. pl. cor. fo. 150.* The course of this arraignment you may read in *Sir Tho. Smith, de rep. Angl. l. 2, ca. 23.*

A rearages (*arreragis*) commeth of the French (*arrierages*, i. *reliqua.*) It signifieth the remaine of an account, or a summe of money remaining in the hands of an Accountant. It is used sometime more generally, for any mony unpayd at the due time, as arrearages of rent. That this word is borrowed from France, it appeareth by *Tiraquel de utroque retractu, tomo 3 p. 32, num. 10.*

Arrest (*arestum*) commeth of the French (*arrester*, i. *retinere, retinere, subsistere*) or rather it is a French word in it selfe, signifying a setting, stop, or stay, and is metaphorically used for a decree or determination of a cause debated or disputed to and fro : as (*arrest du Senat, i. placitum curie.*) In our Common Law it is taken most of all for a stay or stop, as a man apprehended for debt, &c. is sayd to be arrested. To plead in arrest of judgement, is to shew cause why judgment should be stayd, though the verdict of the twelve be passed. To plead in arrest of taking the enquest upon the former issue, is to shew cause why

an enquest should not bee taken, &c. *Brooke tit. Repleader.* Take this of learned Master Lambert, in his *Eirenarch. lib. 2, cap. 2, pag 94 Bude,* saith hee, in his Greeke Commentaries is of opinion, that the French word (*arrest*) which with them signifies a decree or judgement of court, tooke beginning of the Greekc *ἀρεστός*, i. *placitum*; and as we might say, the pleasure and will of a Court. And albeit it were not out of the way, to thinke that it is called an Arrest, because it stayeth or arresteth the party ; yet I beleeve rather, that we received the same from the Norman lawes, because we use it in the same sence with them. For commonly with us, an arrest is taken for the execution of the commandement of some Court, or of some officer in justice. But howsoever the name began, an arrest is a certaine restraint of a mans person, depriving him of his owne will and liberty, and binding it to become obedient to the will of the Law, and it may be called the beginning of imprisonment. Precepts and writs of the higher courts of Law doe use to expresse it by two sundry words : as (*capias*) and (*attachies*) which signify to take or catch hold of a man. But this our precept noteth it by the words (*duc facias*) that is, cause him to be conveyed, &c. For that the officer

cer hath, after a sort, taken him before, in that he commeth unto him, and requireth him to goe to some Justice of the peace. Thus farre M. Lambert. And belike this word is spred farther than France : for Gisile a German writer sheweth by his *Traictate de arrestis imperii*, that it is used also in the Imperial territories, and in the same signification, c. I. n. 1.

Arrest andis bonis ne dissipentur, is a writ which lieth for him whose cartell or goods are taken by another, that during the controversie, doth or is like to make them away, and wil be hardly able to make satisfaction for them afterward. Reg. orig. fo. 126 b.

Arrestando ipsum qui pecuniam recipit ad proficiscendum in obsequium regis, &c. is a writ that lieth for the apprehension of him that hath taken prest mony towardsthe Kings wars, and lieth hidden when he should go. Register orig. 24 b.

Arresto facto super banis mercatorum alienigenorum, &c. is a writ that lieth for a Denizen against the goods of strangers of any other country, found within the Kingdome, in recompence of goods taken from him in the said country, after he hath bin denied restituition there. Reg. orig. fo. 129 a. This among the ancient Civilians was called *clavigatio*, now barbarously *repreſalie*.

Arrested (*arreſtatuſ*) is hee that is conuented before a Judge, and charged with a crime, *Stawnf. pl. cor. li. 2. 45. quaſi ad rectum vocatus*. It is used sometime for Imputed or layd unto, as no folly may be arrested to him being under age. *Littleton, cap. Remitter.* The Latine substantive *Rettum* is used in the *Regist. orig. Chawcer* useth the verbe Arretteth, *id est*, layeth blame, as M. Speight interpreteth it. I may probably conjecture that this word is the Latine (*Rectum*:) For *Braction* hath this phrase, *ad rectum habere malefactorem*, i. to have the malefactor forth comming, so as he may be charged and put to his tryall, lib. 3, tract. 2, ca. 10. And in another place, *Rectatus de morte hominis*, i. charged with the death of a man, *ed. ca. 1. num. 3.*

Articles of the Clergie (*articuli Cleri*) be certaine statutes made touching persons and causes ecclesiasticall, *an. 9 E. 2.* like unto which there were other made, *an. 14 E. 3. stat. 3.*

Aſſay of measures and weights (*aſſaiſa mensurarum & ponderum*) *Reg. orig. fo. 279,* is the examination used by the Clerke of the market.

Aſſayer of the King is an officer of the Mint, for the due trial of Silver, indifferently appointed betweene the Master of the Mint,

and the Merchants that bring silver thither for exchange: *an. 2 H. 6 cap. 12.*

Assult (*insultus*) commeth of the french verb *assailer*. i. *adoriri*, *apetere*, *invadere*; which French also proceedeth from the Latine, *assilire*, i. *vim afferre*, *oppugnare*. It signifieth in our common Law, a violent kinde of injury offered to a mans person, of a higher nature than battery, for it may bee committed by offering of a blow, or by a fearefull speech, *M. Lambert* in his *Eirenar. lib. 1, ca. 3*. whom reade. The Feudists call this *assultum*, and define it thus: *Assultus est impetus in personam aut locum, sive hoc pedibus fiat, vel equo, aut machinis, aut quacunque alia re assiliatur.* *Zafius de feud. parte 10, nu. 38.* And *assilire est vim adferre, adoriri, oppugnare*, *lib. feud. 1, titulo 5, § 1.*

Affach seemeth to bee a Welch word, and to signifie so much as a kinde of excuse or strange kinde of purgation by the oaths of 300 men, *an. 1 H. 5. ca. 6.*

Affart (*affartum*) in *M. Manwood's* judgement, *parte 2, c. 9, nu. 5* of his Forest lawes, commeth of the French *affortir*, signifying as he sayth, to make plaine, or to furnish; but rather indeed, to set in order, and handsomely to dispose. *Affartum est, quod redactum est ad culturam*, *Flet. lib. 4, ca. 21, §.* Item *respondere*. It signifieth, as

the sayd *M. Manwood* saith, *n. 1. ubi supra*, an offence committed in the Forest, by plucking up those woods by the roots, that are thickets or coverts of the Forest, and by making them plaine as earable land: where he also sayth, that an affart of the Forest is the greatest offence or trespass of all other, that can be done in the forest, to vert or venison, containing in it as much as Wast, or more. For whereas the waste of the Forest, is but the felling and cutting downe of the coverts, which may grow again in time, an affart is a plucking them up, &c. Which he confirmeth out of the red booke in the Exchequer, in these words: *Affarta verò, occiones nominantur, quando sc: foresta nemora vel dumeta, pascuis & latibulis ferarum opportuna, succiduntur: quibus succidit & radicitus avulsis, terra subvertitur & excollitur.* And againe, out of the *Regist. origin. fol. 257, a, b*, in the writ, *Ad quod damnum*, sent out in case where a man sueth for a licence to affart his grounds in the forest, and to make it several for tillage. So that it is no offence if it be done with license. To this, may *Braeton* also be added, *lib. 4, cap. 38, num. 11*, where hee saith that these words, *boscus efficitur affartum*, signifie as much as *redactus in*

in culturam. Of this you may read more in *Cromptons Jurisdictions*, fo. 203. and in *charta de foresta*, an. 9 H. 3, ca. 4. where the English word is not *assart*, but *assert*. And in *Manwood*, part 1 of his Forest lawes, pag. 171. The word is used an. 4 Edw. 1, stat. 1. in the same signification. That which we call *assarium*, is elsewhere termed *Disboscatio*, *Decis. Gen. 74.*

Assembly unlawfull (*illicita assemblata*) commeth of the French *assembler*, i. *aggregare*, whence also is the substantive *assemblée*, i. *coitio*, *congregatio*. It is in our common Law, as *M. Lamberd* defineth it, *Eiren. lib. 1, ca. 19.* the company of three persons or more, gathered together to do an unlawful act, although they do it not. See *unlawfull assembly*.

Assets (*quod tantumdem valet*) *Bract. l. 5. tract. 3. ca. 8. nu. 2.* is nothing but the French *assez*, i. *satis*. For though this word masque under the visard of a substantive, it is in truth but an adverb. It signifieth in our Common Law, goods enough to discharge that burthen, which is cast upon the executour or heire, in the satisfying of the Testators or Auncetours debts or Legacies. See *Brooke, titulo Assets per dissent*: by whom you shall learne, that whosoever pleadeth assets sayeth nothing, but that he against whom he pleadeth hath enough descended or come

to his hands, to discharge that which is in demand. The Author of the new Terms of law maketh two sorts of Assets, viz. *assets par dissent*, and *assets enter mains*; the former being to be alledged against an heire, the other against an executor or administrator.

Assigne (*assignare*) both it selfe and the French *assigner* come of the Latine. It hath two significations: one generall, as to appoint a *deputé*, or to set over a right unto another. In which signification, *Britton* fo. 122 sayth, This word was first brought into use for the favour of Bastards, because they cannot runne under the name of Heires to their fathers, and therefore were and are comprised under the name of *assignees*. The other signification of this word is especial, as to appoint at, or set forth, viz. to assigne Error. *Old nat. B. fo. 19.* is to shew in what part of the Processe Error is committed. To assigne false judg-
ment, *eodem, fo. 17.* that is, to declare how and where the judgement is unjust. To assigne a false verdict, *eodem, fo. 112.* and to assigne an oath to be false, *an. 9 R. 2, ca. 3.* To assigne the Cessor, *Old nat. br. fo. 1341.* to shew how the plaintife had cessed, or given over. To assigne wast, is to shew, wherein especially the wast is committed, *Reg. O. ig. f. 72.*

Assigne, in the generall signification is used, anno 20 Ed. I, & anno 11 H. 6, cap. 2, in these words, Justices assigned to take assises. And the substantive (*assignement*) hath the same signification, Wests symb. parte 1, lib. 2, sect. 495, & seq. In which manner is also used the adjective (*assignee, assignatus*) viz. for him that is appointed or deputed by another, to doe any act, or performe any busynesse, or enjoy any commoditie. And an *assignee* may be either in deed or in Law. *Assignee* in deed, is he that is appointed by a person: an *assignee* in law, is hee whom the Law so maketh, without any appointment of the person. Vide Dyer, fol. 6, num. 5. Perkins in Grauntes sayth, that an *assignee* is hee that occupieth a thing in his owne right: and *Deputé*, he that doth it in the right of another.

Affise (*assisæ*) commeth of the French word *affise*, which in the grand Custumary of Normandy, cap. 24, is defined to this effect: *Affise* is an assembly of Knights and other substantiall men, with the Baylife or Justice, in a certaine place, and at a certaine time appointed. And againe, cap. 55, *Affise* is a court, in the which whatsoever is done, ought to have perpetuall strength. This Normane word *affise*, commeth of the French *assevir*, i. *collocare*,

to settle or bestow in some place certaine: as *S' asséoir*, is to sit downe by another. And metaphorically it is used of things incorporeall, as *asséoir son juge-ment sur quel que lieu*, is, *interponere judicium suum*. Of this Verbe commeth the participle *assis*, as *estre assis*, i. *sedere*. And this participle in the grand Custumary of Normandy, cap. 68, is used as we would say: appointed, limited, or determined, viz. *au jour qui est assis à faire la bataille, se doibuent les champions offrir à la justice*; That is, At the day which is appointed for the combat, the Champions ought to offer themselves to the Justice. So that by all these places compared together, it is evident whence the originall of this word *affise* floweth. How diversly it is used in our common law, it followeth that we declare. First, Littleton in the chapter *Rents* sayth that it is *equivocum*: where he setteth down three severall significations of it; one, as it is taken for a writ: another as it is used for a Jury: the third as for an ordinance. And him, he that listeth may reade more at large. My collections have served me thus: first, *affise* is taken for a writ directed to the Sheriffe, for the recovery of possession of things immooveable, whereof your selfe or your Auncestour have been disseised.

disseised. And this is as well of things corporall, as incorporeall rights, being of foure sorts, as here they follow in their order.

Affise of novel disseisin (*affisa nova disseisine*) lieth where a Tenant in fee simple, fee taile, or for teame of life, is lately disseised of his lands or tenements, or else of a rent service, rent secke, or rent charge, of common of pasture, of an office, of toll, tronage, passage, pownage, or for a nuisance levied, and divers other such like. For confirmation wherof you may reade *Glanvile* li. 10, cap. 2. *Braclton* li. 4, tract. 1, per totum. *Britten* ca. 70, & seq. *Reg. orig.* fol. 197. *Fitz. Nat. brev.* fo. 177, 178, 179. *New booke of Entries*, fo. 74, col. 3. *West. 2, ca. 25. anno 13, Edw. 1.* And to this may aptly be added the bill of fresh force (*frisea fortia*) which is directed to the officers or magistrats of Cities or townes corporate, being a kinde of Affise for recovery of possession insuch places within forty dayes after the force, as the ordinary affise is in the county, *Fitz. Nat. brev.* fo. 7 c. This the Civilians call *Judicium possessorium recuperandi*.

Affise of mort d' auncester (*affisa mortis antecessoris*) lieth where my father, mother, brother, sister, uncle, aunt, &c. died seised of lands, tenements, rents, &c. that he had in fee simple, and after his

death a stranger abateth: and it is good as well against the abatour, as any other in possession. How likewise this is extended, see *Braclton* lib. 4, tract. 3, per totum. *Britton* cap. 70, cum multis sequent. *Fitz. Nat. br. fo. 114. Regist. orig. fo. 223.* This the Civilians call *Judicium possessorium adipiscendi*.

Affise of darrein presentment, (*affisa ultime presentationis*) lieth, where I or myne ancestour have presented a Clearke to a Church, and after (the Church being voyd by the death of the said Cleark, or otherwise) a stranger presenteth his clerk to the same church, in disturbance of me. And how otherwise this writ is used, see *Braclt. 1. 4. tract. 2. Reg. orig. fo. 30. Fitzk. Nat. bre. fo. 195.*

Affise de utrum (*affisa utrum*) lieth either for a Parson against a Lay man, or a Lay man against a Parson, for land or tenement doubtfull, whether it be lay fee, or free almes. And of this see *Braclton* lib. 4, tract. 5, ca. 1 & seqq. *Britten* ca. 95. The reason why these wris be called affises, may be divers: First, because they settle the possession, and so an outward right in him that obtaineth by them. Secondly, they were originally sped and executed at a certaine time and place formerly appointed. For by the Norman Law, the time and place must

must bee knowne forty dayes before the Justices sate of them : and by our Law there must be likewise fifteene dayes of preparation , except they be tried in those standing courts of the King in Westminister, as appeareth by *F.N.B. fo. 177, d.e.* Lastly, they may be called Assises, because they are tried most commonly by especiall courts, set and appointed for the purpose, as may be well proved not only out of the Custumary of Normandy, but our bookes also : which shew, that in ancient times Justices were appointed by especiall Commission, to dispatch controversies of possession, one or more, in this or that onely county, as occasion fell out, or disseisins were offered, and that as wel in Term time, as out of Terme: wheras of later dayes, wee see that all these Commissions of assises, of *Eyre*, of *Oyer and Terminer*, of *Goale delivery*, and of *Nisi prius*, are dispatched all at one time, by two severall circuits in the yeare, out of terme, and by such as have the greatest sway of justice, being all of them either the Kings ordinary Justices of his benches, Sergeants at the law, or such like.

Assise in the second signification, according to *Littleton*, is used for a Jury. For (to use his own example) it is set down in the beginning of the record of an

assise of *novel disseisin*, *assisa venit recognatura*; which is as much to say, as *Juratores veniunt recognituri*. The reason why the Jury is called an Assise, he giveth to be this, because by the writ of assise, the Sherife is commanded, *quod faciat duodecim liberos et legales homines de viceneto, &c. videre tenementum illud, & nomina eorum imbreviari, & quod sumoneat eos per bonas summonitiones, quod sint coram Justiciariis, &c. parati inde facere recognitionem, &c.* This is (as if he should have spoken shorter) *metonymia effecti*. For they are called the assises, because they are summoned by vertue of the writ so termed. And yet the Jury summoned upon a writ of right, is likewise called the assise, as himselfe there confesseth. Which writ of right is not an assise: but this may bee sayd to bee *naragansinos*, or abusively so termed. Assise in this signification is divided in *magnam & parvam*, *Glanvile, lib. 2, cap. 6 et 7, &c.* and *Britton ca. 12.* where it appeareth, wherein the great assise differeth from the petit assise: whom I wish to be read, by those that would be further instructed in this point. For this place thus much in short. The former foure kinds of assises used in actions onely possessory, be called petit assises, in respect of the grand assise. For the law of fees is

is grounded upon two rights: one of possession, the other of propertie: and as the grand assise serveth for the right of propertie, so the petit assise serveth for the right of possession. *Horns mirror of Justices, lib. 2. cap. de novel disseisin.*

Affise in the third signification according to *Littleton*, is an ordinance or statute: as the statute of bread and ale made, anno 51. H. 3. is termed the assise of bread and ale (*assisa panis & cervicis*) *Regist. orig. fol. 279. b.* The Assise of *Clarendon* (*assisa de Clarendon*) whereby those that be accused of any hainous crime, and not able to purge themselves by fire and water, but must abjure the realm, had liberty of fourty dayes to stay, and try what succour they could get of their friends, toward their sustenance in exile. *Statu[m] pl. cor. fol. 118. out of tract[us] 2. li. 3. tract[us] 2. cap. 16. num. 2.* Of this also *Roger Hoveden* maketh mention, and more particularly then any that I have read, *parte poster. suorum annalium*, fol. 313. b. in *Henrico secundo*. Assise of the Forest (*assisa de Forresta*) which is a statute or constitution touching orders to be observed in the Kings Forest. *Manwood*, *parte 1. of his Forest lawes*, pag. 35. *Crompton* in the Court of the Justices of the Forest *per totum*, fol. 146. & seq. And the assise of the King, *an. 18.*

Ed. 3. stat. 1. called the statute for view of Francke pledge. And these bee called assises, because they set downe and appoint a certaine measure, rate or order in the things which they concerne. Of Assise in this signification doth *Glynville* also speake, *lib. 9. cap. 10. in fine*. *Generaliter uerum est quod de qualibet placita quod in comitatu deducitur & terminatur, misericordia que inde prouenit, vicecomi debetur: que quanta sit, per nullam assisam generalem determinatum est.* And thus much touching *Littletons* division. But if we marke well the writers of the Law, we shall finde this word (*assise*) more diversly used, then this Author hath noted. For it is used sometime for the measure or quantity it selfe, (and that per *Metonymiam effecti*) because it is the very scantline described or commanded by the ordinance: as for example; we say, when wheat, &c. is of this price, then the bread, &c. shall bee of this assise. This word is further taken, for the whole processe in court upon the writ of assise, or for some part thereof, as the issue or verdict of the Jury. For example, assises of new disseisin, &c. shall not be taken, but in their shires, and after this manner, &c. *mag. char. cap. 12.* And so it seemeth to signifie, *Westm. 2. cap 25. anno 13. Ed. 1.* in these words

let the disseisours alledge no false exceptions, whereby the taking of the Assise may bee deferred, &c. And anno. 34. Ed. i. stat. 2. if it be found by assise : the assise is arraigned: to averre by the assise : the assise by their default shall passe against them : and also anno. 1. H. 6. cap. 2. assises awarded by default of the tenents &c. Lastly by Merton cap. 4. anno 20 H. 3. certified by the assise, quit by the assise, &c. And in this signification, Glanvilo calleth it, *magnam assissam domini regis: quae ex duodecim ad minus legalium hominum sacramentis consistit li. 2. cap. 7.* Bracton useth it in like sort: as *assisa cadit in transgressionem, lib. 4. cap. 30. & assisa cadit in perambulationem, adem. cap. 31. num. 2.* Fleta defineth an assise in this signification, thus: *Assise in jure possessorio, est quedam recognitio duodecim hominum juratorum, per quam Justiciarri certiorantur de articulis in brevi contentis.* An assise also thus signifying, is said sometime to passe (*per modum assise*) and sometime *in modum jurare*, in manner of an assise, when onely the disseisin in question, is put to the triall of the twelve, in manner of a Iurie, when as any exception is objected to disable the interest of the disseisee, and is put to be tryed by the twelve, before the assise can passe. As for example; *Quæstio status,*

causa successoris, causa donacionis, pactum sive conditio vel conventionis, voluntas & dissimulatio, transactio, vel quietaclamatio vel remissio confirmatio sive consensus, propriæ usurpatio rei proprie, difficultas judicii, justum judicium, finis, chirographum, intrusio in rem alienam, vel disseisina, si incontinenti rejicitur, negligentia que per transitum temporis excludit actionem. Fleta. lib. 4. cap. 10. §. 1. whom reade also to this point, cap. 11. §. Si autem à Domino: and at large, cap. 16. ejusdem libri. & 1 b. 5. cap. 6. §. Item veritatem assisi & seq. And note that assise in this signification, is taken foure wayes, old. nat. br. fol. 105. The first, is assise at large, which is taken as well upon other points, as upon the disseisin. For example, where an infant bringeth an assise, and the deed of his ancestor is pleaded, whereby he claimeth his right or foundeth his title: then the assise shall be taken at large: that is, the Iurie shall enquire, not onely whether the plaintiff were disseised or not by the tenent, but also of these other points: viz. whether his auncestre were of full age, of good memory, and out of prison, when hee made the deed pleaded. Another example out of Kitchin, fol. 66. The tenent pleadeth a forraine release, in barre to an assise, whereupon the cause was adjourned. At the day

day the tenent maketh default. Therefore the assise was taker at large : that is , not onely whether the plaintiffe were disseised , but also whether there be any such forraine release. A third example you may reade in *Littleton, cap. Estates upon condition.* The second manner of assise in point of assise (*assisa in modum assise*) which is , when the tenent , as it were , setting foot to foot with the Demandant , without farther circumstance , pleadeth directly contrary to the writ , no wrong , no disseisin. The third manner is , assise out of the point of assise (*assisa extra-assisam, vel in modum iurata.*) viz. when the tenent alleageth some by exception , that must be tried by a Jurie , before the principall cause can proceed : as if hee plead a Forreine release , or Forreine matter triable in another countie. For in this case , the Justices referre the Record to the court of Common plees , for the triall of the Forreine plee , before the disseisin can come to be discussed. Of this sort reade divers other examples in *Bracton, lib. 4. parte 1. cap. 34.* For there be of them (as he saith) and *Britton* also , *cap. 52.* both dilatorie and peremptorie. The fourth and last manner is : assise of right of damages , and that is , when the tenent confessing a putting out , and referring it to a demurrer in

law , whether it were rightly done or not , is adjudged to have done wong. For then shall the Demandant have a writ to recover damages , which is called assise to recover damages , as also the whole processe.

Assise , is further taken for the court , place , or time , where and when the writs and processes of assise be handled or taken. And in this signification assise is generall : as when the Justices passe their severall Circuits , every couple with their Commission , to take all assises twice in the yeere. For hee that speaketh of any thing done , at that time , and in that place , will commonly say , that it was done at the generall assise . It may likewise be speciall , in this signification : as if an especiall Commission should be granted to certaine (as in ancient times they often were , *Bracton, lib. 3. cap. 11. in fine*) for the taking of an assise upon one disseisin or two : any thing done in the Court before them , a man would say , it was done at such an especiall assise . And in this very signification doth *Glanvil* use it , *lib. 9. cap. 12.* in these words : *Si contra dominum suum & non infra assisam, tunc distringitur ipse occupator, &c.* and *lib. 13. cap. 32.* in these words : *cum quis itaque infra assisam domini regis. i. infra tempus a domino rege de consilio procerum*

ad hoc constitutum, quod quandoque major, quandoque minus censetur, uniuersum in justis & sine judicio discesserit. Of this word *Affise*, you may reade in *M. Skene de verbo signif. verba*. *Affise*, and by him understand, that in *Scotland* also it is diversly used; viz. in 5. severall significations. And touching the fift signification; hee hath these words: An *Affise* is called a certaine number of men lawfully summoned, received, sworne and admitted to judge and discerne in sundry civill causes, like as *Perambulations*, *Cognitions*, *Molestations*; *pourpestruere*, division of lands, serving of Briefes, and in all and sundry Criminall causes decided and tried by an *Affise*: whereof there are two kinds: one ordinarily in use, which may be called a little *Affise* of the number of 13. or 15. persons; the other, called a great *Affise*, which consisteth of 25. persons, &c. The rest is very worth the reading.

Affisa continuanda, is a writ directed to the Justices assigned to take an *assise*, for the continuance of the cause, in case where certaine records alleaged, cannot in time bee procured by the party that would use it, *Reg. orig. f. 217.*

Affisa praeroganda, is a writ directed to the Justices of *Affise*, for the stay of proceeding, by reason of the Kings busynesse, wherein the

partie is employed, *Regist. orig. fo. 208.* and *fo. 221.*

Affication (*afficiatio*) is a patent sent by the King, either of his owne motion, or at the suite of the plaintiff, to Iustices appointed to take assises of *novel disseisin*, or of *Oyer and Terminer*; &c. to take others unto them as fellowes and collegues in that busines. The derivation is plaine: the examples and sundry uses hereof you may find, in *Fitz-n.t.b. fol. 185. E.* & *fol. 111. B.* but more particularly in the *Rag. orig. fol. 201, 202, 205, 206, 207-223, 234.*

Affoile (*absolvere*) commeth of the french (*absoulire*) and signifieth to deliver or set free from an excommunication, *Stanf. pl. xvii. fol. 72.* in words to this effect: Otherwise the defendant should remain in prison untill the plaintiff were affoiled, that is, delivered from his excommunication.

Affumpſit, is a voluntary promise made by word, whereby a man affummeth, or taketh uppon him to performe or pay any thing unto another. This word containeth any verball promise made upon consideration, which the Civilians expresse by divers words, according to the nature of the promise, calling it some time *pactum*, sometime *sponsionem*, sometime *promissionem*, *pollicitationem* or *constitutum*, the word seemeth to be drawne from the Latin

tine (assumptio) que significat professionem. l. n. ad municipalem.

Attache (attachiare) commeth of the french (attacher. i. figere, reuere, illigare, desfigere, alligare.) In our common law it signifieth, to take or apprehend by commandment or writ. And *M. Lambert* in his *Eirenarch.* li. 1. cap. 16. maketh this difference betweene an Arrest, and an Attachment, that an Arrest proceedeth out of lower Courts by precept, and an Attachment out of higher Courts by precept or writ: and that a precept to Arrest hath these formal words (*duci facias*, &c. and a writ of Attachment these words: (*principimus tibi quid attachies talis*, & *babeas cum coram nobis*, &c.) whereby it appeareth, that hee which arresteth, carrieth the party arrested to another higher person to be disposed of forthwith, hee that attacheth, keepeth the party attached, and presenteth him in Court at the day assigned in Attachment. Yet I observe out of *Mister Kitchin*, that an attachment issueth out of a Court Baron, which is a low Court, cap. *Attachment in Court Baron*, fol. 79. Another difference there is, that an Arrest lieth onely upon the body of a man, and an Attachment sometime upon his goods, as shall be shewed in the sequel. It may be likewise asked how an Attache-

ment and a (*capias*) do differ: and how an Attachment and a (*cepe*) and an Attachment and a Distresse. First, that an Attachment differeth from a (*capias*) it appeareth by *Kitchin* in these words: fol. 79. Note that in a Court Baron a man shall be attached by his goods; and a (*capias*) shall not goe out thence: whereby I gather, that an Attachment is more generall, taking hold of a mans goods, and a (*capias*) of his body onely. Then an Attachment differeth from a (*cepe*) in this, because a (*cepe*) be it (*cepi magnum*) or (*cepe parvum*) taketh hold of immoveables, as lands or tenements, and are properly belonging to action reall: as you may gather out of their formes, in *Fitz. nat. br.* whereas *Attachement* hath rather place in Actions personall, as *Bralton* plainly setteth downe; li. 4. tract. 4. ca. 5. nn. 3. Where nevertheless it appeareth, that a (*cepe*) may be likewise used in an Action personall. An Attachment (as it is formerly said) taketh hold of moveable goods, or the body. For it appeareth by *Kitchin*, f. 263. that a man may be attached by a hundred Sheepe. Read *Skene, de verbo, signif. verbo Attachimentum.*

Now it followeth to shew how Attachment differeth from a Distresse. For so it doth, as may be shewed out of *Kitchin*. fol. 78.

where he saith, that process in Court baron, is Summons, attachment, and Distresse, out of the *Old nat. br. fol 27.* where it is said, that a process in a (*quare impedit*) is Summons, Attachment, and one Distresse, and againe, *fol. 28.* where (speaking of the writ *Ne admittas*) he saith thus: And the process is one prohibition, and upon the prohibition an Attachment and Distresse; and *fol. 32.* in a writ of (*Indicavit*) you have these words: And after the Attachment returned, the Distresse shall goe out of the Roles of the Justices. *Bracton* on the other side, *l.5. tract. 3. c.4. nro. 2.* sheweth, that both (*attachiamentum, & magnum cape, districcione sunt.*) Of which opinion *Fleta* also is, *li. 5. c.24. §. si autem ad.* But there also he saith, that (*attachiamentum est districtio personalis, & cape magnum districtio realis.* So that by his opinion, *districtio* is (*genus*) to Attachment. *Britton* in his 26. chapter, hath words to this effect: But in Attachment of Felony, there commeth no Distresse, otherwise then by the body. And if the Sheriff returne in the cases aforesaid, that the Trespassours have nothing in his Bayliwick, by the which they may be distreined, it must be awarded that hee take their bodies, &c. In which place, an Attachmeut is plainly used, for an apprehension

of an offender by his goods. So that to conclude, I find no difference betweene an Attachment, and a Distresse, but these two: That an Attachment reacheth not to lands, as a Distresse doth; and that a Distresse toucheth not the body (if it be properly taken) as an Attachment doth. Yet are they divers times confounded, as may appeare by the places formerly alleaged, and by *Glanvil lib. 10. cap. 3.* and *Fleta li. 2. ca. 66. & seq.* Howbeit, in the most common use, an Attachment is an apprehension of a man by his body, to bring him to answer the Action of the plaintiff: A Distresse is the taking of another mans goods, for some reall cause, as rent, service, or such like, whereby to drive him to replevie, and so to be plaintiff in an Action of Trespass, against him that distreined him. And so much for the difference, and coherence of these words. See also Distresse.

I find in *West. parte 2. symbolio. titulo* proceedings in Chancerie, *sect. 22, 23.* that Attachment out of the Chancerie is two-fold, one simple, and originally decreed for the apprehension of the partie: the other, after returne made by the Sheriff *Quod defensors non est inventus in Balivaria sua*, with Proclamations made through the whole Countie, in such places, as hee shall thinke meet

meete, that the partie appeare by a day assignd, and that hee be attache[n]d neverthelesse, if hee may bee found. This second kinde hath an affinity with the Canoniſts (*vijſ & modis*) at the which if the partie appeare not, he is excommunicate: or with the Civili‐ans (*vijſ & modis unā cum intin‐tione*) for in the Chancery, if he comenot upon thys, he is forthwith pressed with a writ of rebellion.

There is an attachment of pri‐viledge, which is a power to apprehend a man in a priviledged place, or else, by vertue of a mans priviledge, to call another to this or that Court, whereunto hee himselfe belongeth, and in respect whereof, hee is privileged. New booke of Entries, *verbo privilege.* fo. 431. col. 2. There is also a forraine attachment, which is an attachment of a For‐riners goods found within a liberty or city, to satisfie some creditour of his within the Citie. There is also an attachment of the forest, which is a Court there held. For as (*M. Manwood* saith) in his first part of forest Lawes, pag. 9c. 92. 99. there bee three courts of the forest, whereof the lowest is called the (*attachment*) the meane, the (*swaynerote*) the highest, the (*Justice seate in Eyre.*) This court of attachement seemeth so to bee called, because the verderours of the forest have

therein no other authority, but to receive the attachments of offenders against vert and veniſon, taken by the rest of the officers, and to enroll them, that they may bee presented and punished at the next Justice seate. *M. man‐wood, parte. I. pag. 93.* And this attaching is by three meanes, by goods and cattels, by body, pledges, and mainprise, or by the body onely. The court is kept every fourty dayes throughout the yeare. And he that hath occasion to learne more of this, I refer him to *M. Manwood, loco quo supra,* and to *M. Crompton* in his court of the forest. Attachment is com‐manded in writs, the diversitie whereof you may see, in the *Regist.* orig. under the word *Attachamen‐tum in indice.*

At large, see affise at large in the word *affise*, and *old. nat. br. fol. 105.* Verdict at large, *Littleton. fol. 98.* To vouch at large, *old. nat. br. fol. 108.* To make title at large. *Kiseb. fol. 68.* See *Barre.*

Attaine (*attincta*) commeth of the French, as you shall see in the word (*attainted:*) But as it is a substantive, it is used for a writ, that lieth after judgement, against a Iurie that hath given a false verdict in any court of Record (bee the action reall or personall) if the debt or dammages surmount the summe of 40. shillings: what the forme of the writ is, and how

in use it is extended, *Fitz. nat. br.* fol. 105. and the new booke of Enteries, fol. 84. c. lumb. 1. The reason why it is so called, seemeth to bee, because the partie that obtaineth it, endeavoureth thereby to touch, deprehend, or staine the Iurie with perjurie, by whose verdict hee is grieved. What the punishment of this perjurie is, or of him that bringeth the writ against the Jury, if he faile in his prooфе, see *Glanville, lib. 2. cap. 19.* *Fitz. nat. br.* fol. 109. *K. L.* & 110. *A. B. C. D.* &c. the Termes of the law, verb. *Attaint.* *Fortescue,* cap. 26. *Smith de rep.* *Anglo. lib. 3. cap. 2.* and anno 11. *Hen. 7. cap. 21.* & anno 23. *H. 8. cap. 3.* and others. In what diversity of cases this writ is brought, see the Register orig. in *Indice.*

Attainted (*attinctus*) commeth of the French (*teindre*. i. *tingere*) the participle whereof is (*teinct.* i. *tingitus*) or else of (*attaindre*. i. *assequi*, *attingere*.) It is used in our common law, particularly for such as are found guiltie of some crime or offence, and especially of felony or treason. How be it a man is said to bee attainted of disseisin, *Westm. 1. cap. 24.* & 36. anno 3. Ed. 1. And so it is taken in French likewise (as *estre attaint* & *vayncu en aucun cas*) is to bee cast in any case. Which maketh mee to thinke that it ra-

ther commeth from (*attaindre*) as wee would say in english catched, overtaken, or plainly deprehended. And *Britton, cap. 75.* useth the participle (*attaint*) in the sence that wee say (*attained unto*) a man is attainted by two meanes: by appearance or by processe. *Statut. pl. cor. fol. 44.* Attainer by appearance, is by confession, by battell, or by verdict, *idem. fol. 122.* Confession whereof attaint groweth, is double: one at the barre before the Judges, when the prisoner upon his enditement read, being asked guilty or not guilty, answereth guilty, never putting himselfe upon the verdict of the Iurie: the other is before the Coroner in sanctuarie, whete hee upon his confession was in formertimes constrained to abjure the Realme: which kind also of the effect, is called Attainder by abjuration. *Idem, fol. 182.* Attainer by battell is, when the partie appealed by another, and chusing to try the truth by combat rather then by Iurie, is vanquished. *Idem, fol. 44.* Attainer by verdict is, when the prisoner at the barre anwering to the enditement, not guilty: hath an enquest of life and death passing upon him, and is by their verdict or doome pronounced guilty. *Idem, fol. 108.* & 192. Attainer by processe (otherwise called attainer by de-

default, or attaunger by outlagary.) is where a partie flyeth, and is not found untill he have beene fives times called publikely in the countie, and at the last out-lawed upon his default, *Idem* fol. 44. I find by the same Author, fol. 108. that bee maketh a difference betwene attaunger and conviction, in these words: And note the diversitie betwene attaunger and conviction, &c. And with this agreeeth the Statute, *am 34. & 35. H.8. cap. 14. in ipso principio*, and *anno 1. Edw. 6. cap. 12.* in these words: that then every such offender being duely thereof convicted or attainted, by the lawes of this Realme, &c. And againe, in these words: Every woman that is, or shall fortune to be wife of the person so attainted, convicted, or outlawed, &c. To this you may likewise add the Statute, *anno 2. & 3. Edw. 6. cap. 33.* And I find by *Stawnf. pl. cor. fol. 66.* that a man by our ancient lawes, was said to be convicted presently upon the verdict (guiltie) but not to bee attainted, untill it appeared that he was no Clerke: or being a Clerke, and demanded of his Ordinary, could not purge himself. So that a man was not attainted upon conviction, except hee were no Clerke: and in one word, it appeareth, that attaunger is larger then conviction; conviction being only by the Jurie.

And attaunger is not before judgement, *Perkins Graunts, num. 27. 29.* Yet it appeareth by *Stawnf. fol. 9.* that conviction is called attaunger sometime. For there he saith, that the verdict of the Jurie doth either acquit, or attaint a man: and so it is *Westm. pr. co. 14. anno 3. Edw. 1.* This ancient law touching the conviction and purgation of Clerkes, is altered by *anno 23. Eliz. cap. 2.* as you may farther read in *Clergie.*

Attaunger (Attinctum) though it be most used in matters of felonie and treason: yet is it likewise applyed to inferiour transgressions, as to disseisin, *Westm. 1. cap. 36. anno 3. Ed. 1.* and *Britton cap. 26.* See *Attaint*, and *Attain-*

Attendant (attendens) commeth of the French (*attendere*) i. *demorari, operiri, expectare, prestolari*) it signifieth in our common law; one that oweth a duetie or service to another, or after a fort dependeth of another. For example, there is Lord, mesne, and tenent: the tenent holdeth of the mesne by a penny; the meyne holdeth over by two pence. The meane releaseth to the tenent all the right he hath in the land, and the tenent dieth. His wife shall be endowed of the land, and shee shall be attendant to the heire of the third part of the penny, and

not of the third part of the two pence. For she shall be endowed of the best possession of her husband. Another hath, *Kitchin. fol. 209.* in these words: where the wife is endowed by the gardian, she shall be attendant to the gardian, and to the heire at his full age: with whom agreeth *Perkins* also, in *Dower. 424.*

Attorney (*attornatus*) commeth of the french (*tourner*. i. *vertere*) as (*tourner son esprit a faire quelque chose*, i. *arimum ad rem aliquam inclinare.*) Thence commeth the participle (*tourne*. i. *versus, conversus*) and the Substantive (*tour*. i. *vicis, vicissitudo*) as, *chacun a son tour*, i. *quilibet sua vice.*) It signifieth in our common law, one appointed by another man to do any thing in his stead, as much as (*procuator*) or (*syndicus*) in the civil law, *West. parte. 1. Symbologr. lib. 2. sect. 559.* defineth it thus: Attorneys bee such persons, as by the consent, commandement, or request doe take heed, see to, and take upon them the charge of other mens busynesse in their absence, by whom they are commanded or requested. And where it seemeth that in ancient time, those of authortie in Courts, had it in their arbitrement, whether they would suffer men to appeare, or sue by any other then themselves, as is evident by *Fitzb. nat. br. fol. 25.*

in the writ *Dedimus potestatem de attornato faciendo*, where it is shewed, that men were driven to procure the Kings writs or letters patents to appoint Attorneys for them: it is fithence provided by Statutes, that it should be lawfull so to doe without any such circuit, as by the Statute, anno 20. H. 3. cap. 10. anno 6. Edw. 1. cap. 8. anno 27. ejusdem. stat. 2. anno 12. Edw. 2. 1. anno 15. ejusdem. cap. unico. anno 7. Ric. 2. cap. 14. anno 7. H. 4. cap. 13. anno 3. H. 5. cap. 2. anno 15. Hen. 6. cap. 7. & anno 17. H. 7. cap. 2. is to be proved. And you may see great diversity of writs, in the table of the *Regi. origen.* wherein the King by his writ commandeth the Judges to admit of Attorneys. Whereby there grew at the last so many unskilfull Attorneys, and so many mischieves by them, that provision for restraining them was requisite. Wherefore anno 4. H. 4. cap. 18. it was ordained, that the Justices shold examine them, and displace the unskilfull. And againe, anno 33. H. 6. cap. 7. that there should bee but a certaine number of them in *Norfolke* and *Suffolke*. In what cases, a man at this day may have an Attorney, and in what not; see *Fitzb. ubi supra.* Attorney is either generall or speciall: Attorney generall is hee, that by generall authority is appointed to all our afaires

faires or suits : as the Attorney generall of the King, *pl. cor. fol.* 152. which is as much as (*Procurator Cesaris*) was in the Romane Empire. Attorney generall of the Duke, *Cromptons Jurisd. fol. 105.* Attorney speciall or particular is hee, that is employed in one or more causes particularly specified. Attorneys generall, be made after two sorts : either by the Kings Letters Patents before him or the Lord Chancellour, or by our appointment before Justices in *Eyre* in open court, *Glanvile li. 11. cap. pri. Britton, cap. 126.* whom of this thing you may read more at large. There be also in respect of the divers courts, Attorneys at large, and Attorneys speciall, belonging to this or that Court only. The name is borrowed of the Normanes, as appeareth by the *Custumarie, cap. 65.* And I find the word (*Attornati*) or as some read (*Tornati*) in the same signification in the title (*de statu regularium. ca. unico. Sec. Porro in sexto.*) where the glosse saith, that *Attornati dicuntur Procuratores apud aetas constituti.* Our old latine word for this seemeth to be (*responsalis*) *Braet. lib. 4. cap. 31.* & *lib. 5. parte 2. c. sp. 8.* and so it is in *Scotland* at this day, but especially for the Attorney of the Defendant, as (*prolocutor*) is for the Perssewer. *M. Skene de verb. significacione.*

Responsalis, as *Sigonius witnesseth*, in his first booke *De regno Italie*, was in auncient time, the title of the Popes Ambassadour, *Page 11.*

Attorney of the Courts of Wards and Liveries (*Attornatus regis in curia Wardorum & Liveriorum*) is the third office in that Court, who must be a person learned in the lawes of the Land, being named and assigned by the King. At his admission into the office, hee taketh an oath before the Master of the said Court, well and truly to serve the King, as his Attorney in all Courts, for and concerning any matter or cause, that toucheth the possessions and hereditaments limited to the Survey and government of this Court; and to procure the Kings profit thereof : truly to counsell the King, and the Master of the Court, in all things concerning the same, to the best of his cunning, wit, and power : and with all speed and diligence from time to time at the calling of the Master, to endeavor himself for the hearing and determination indifferently of such matters and causes, as depend before the Master : not to take any gift or reward in any matter or cause depending in the Court, or elsewhere, wherein the King shall be partie, whereby the King shall be hurt, hindred, or dis-inherited : to do to his power,

wit and cunning, all and every thing that appertaineth to his office.

Attorney of the Court of the Dutchie of Lancaster (*Attornatus curia Ducatus Lancastrie*) is the second officer in that Court, and seemeth, for his skill in law, to be there placed as (*assessor*) to the Chancelor of that Court, being for the most part, some honorable man, and chosen rather for some especiall trust reposed in him, to deale between the King and his tenents, then for any great learning, as was usuall with the Emperors of *Rome*, in the choice of their Magistrates.

Attournement (*attornementum*) commeth of the French (*toumer. i. vertere*) and in our common law, is an yeelding of the tenent to a new Lord, or acknowledgement of him to be his Lord. For otherwise hee that buyeth or obtaineth any lands or tenements of another, which are in the occupation of a third, cannot get possession: yet see the statute, *an. 27. H.8. cap. 16.* The words used in Attournement are set downe in *Littleton*. I agree mee to the grant made to you, &c. But the more common Attournement is to say: Sir, I attourn to you by force of the same grant: or, I become your tenent, &c. or else deliver unto the Grantee a penny, halfe-penny, or farthing, by way of At-

tournement, *Littleton lib.3. cap. Attournement*, 10. whom you may reade more at large, and find that his Definition proceedeth from more Law then Logicke; because he setteth downe divers other cases in the same chapter, whereto Attournement appertaineth as properly as unto this. But you may perceive there, that Attournement is the transposing of those duties that the tenent ought to his former Lord, unto another, as to his Lord: and also, that Attournement is either by word, or by act, &c. Also Attournement is voluntary, or else compulsory, by the writ rearmed *Per que servitia*, *Old nat. br. fol. 155.* or sometime by Distresse, *Fitzb. nat. br. fol. 147.* Lastly, Attournement may be made to the Lord himselfe, or to his Steward in Court, *Kitchin*, *fo. 70.* And there is Attournement in deed, and Attournement in Law, *Coke vol. 6. fo. 113.* a. Attournement in Law, is an act, which though it be no expresse Attournement, yet in intendment of Law is all one.

(*Attornato faciendo vel recipiendo*) is a writ which a man owing fuit to a Countie, Hundred, Wapen-take, or other Court, and desiring to make an Attorney to appeare for him at the same Court; whom, he doubteth whether the Sheriffe or Baliffe will admit or not for his Attorney there,

there, purchaseth, to command him to receive such a man for his Attourney, and admit his appearance by him. The form, and other circumstances whereof, see in *Fitzb. nat. br. fo. 155.*

Audiendo & terminando, is a writ, but more properly termed a Commission, directed to certaine persons, when as any great assembly, insurrection, or heinous demeanture or trespass is committed in any place, for the appeasing, and punishment thereof, which you may read at large, in *Fitzb. nat. br. fo. 110.* See also *Oyer & Terminer.*

Audience Court (Curia audiencie Cantuariensis) is a Court belonging to the Arch-bishop of *Canterburie*, of equall authoritie with the Arches Court, though Inferior both in dignitie and antiquitie. The originall of this Court was, because the Arch-bishop of *Canterbury* heard many causes extra judicially at home in his own Palace, in which, before hee would finally determine any thing, hee did usually commit them to be discussed by certaine learned men in the civil & canon lawes, whom thereupon he termed his Auditors. And so in time it grew to one especiall man, who at this day is called (*Causarum negotiorumq; audiencie Cantuariensis auditor seu officialis*). And with this office hath heretofore com-

monly been Joyned the Chancellership of the Arch-Bishop, who medleth not in any point of contentious Jurisdiction, that is, deciding of causes betweene party and party (except such as are ventilated *pro forma* onely, as the confirmation of Bishops Elections, or such like) but only of office, and especially such as are *voluntariae jurisdictionis*, as the granting of the custody of the Spiritualities, during the vacation of Bishopricks, Institutions to Benefices, dispensing with Banes of Matrimonie, and such like. But this is now distinguished in person from the Audience. Of this Audience Court, you may read more in the booke, intituled *De antiquitate ecclesie Britanicae historia.*

Auditia querela, is a writ that lieth against him, who having taken the Bond called (Statute Merchant) of another, and craving or having obtained execution of the same at the Maior and Bailiffes hands, before whom it was entered, at the complaint of the partie who entered the same, upon suggestion of some just cause why execution should not be granted; as a release, or other exception. This writ is granted by the Chaunceler of England, upon view of the exception suggested, to the Justices of the Common banke, or of

the Kings Bench, willing them to grant Summons to the Sheriff of the countie, where the creditour is, for his appearance at a certaine day before them. See more in *Old nat. br. fo. 66.* and *Fitz.b.nat. br.fo.102.*

Auditour (*auditor*) commeth of the French (*auditeur*) and in our law, signifieth an Officer of the King, or some other great personage, which yearely by examining the accounts of all under officers accountable, maketh up a generall booke, that sheweth the difference between their receipts or burthen, and their allowances, commonly called (*allocations*) as namely, the Auditours of the Exchequer, take the accounts of thole Receivers, which receive the revenues of the Augmentation: as also of the Sherifffes, Escheatours, Collectours, and customers, and set them down and perfect them. Him that will read more of this, I referre to the *Statute, anno, 33. H.8.ca.33.*

Auditours of the Prests, are also officers in the Exchequer, that doe take, and make up the great accounts of *Ireland*, *Barwick*, the *Mint*, and of any money imprested to any man.

Auditour of the Receites, is an officer of the Exchequer, that fileth the Tellers bills, and maketh an entry of them, and giveth to

the Lord Treasurer a certificate of the money received the week before. He maketh also (*Debentures*) to every Teller, before they pay any money, and taketh their accounts. He keepeth the Black booke of the Receipts, and the Treasurers key of the Treasury: and feeth every Tellers monies locked up in the new Treasury.

Aventure, is a mischance, causing the death of a man without Felonie: as when he is suddenly drowned, or burnt, by any sudden disease falling into the water or fire, *Briston ca. 7.* where you may see what it differeth from Misadventure. See *Misadventure*.

Average (*averagium*) by *M. Skenes opinion* (*verbo.arage*) *de verbis* *significatione*, commeth of the word (*averia.*) i. a beast, and so consequently signifieth service which the tenent oweth to the Lord, by horse, or cariage of horse. I have heard others probably derive it from the French (*courage*) or (*avore. i. opus.*) It seemeth with us to have two divers significations: For the first, *Rastall. titulo, Exposition of words*, maketh mention of the Kings averages, which I take to be the Kings carriages by horse or cart. Then *anno 32. H.8.ca. 14.* and *anno 1. Jacobi, ca. 32.* it is used for a certaine contribution that Merchants and others doe every man pro-

proportionably make toward their losses, who have their goods cast into the sea for the safegard of the ship, or of the goods and lives of them in the Ship in time of a tempest. And this contribution seemeth to be so called, because it is proportioned, after the rate of every mans average or goods carried.

Averius captis in withernam, is a writ for the taking of cattell to his use, that hath his cattell taken unlawfully by another, and driven out of the county where they were taken, that they cannot be replevied. *Register origen.* fol. 82. a. b.

Averment, (*verificatio*) commeth of the French (*averer*. i. *testari*) as *averer quelque meschancete*, i. *extrabere scelus aliquod in lucem ex occultis tenebris*, It signifieth (according to the Author of the termes of law) an offer of the defendant to make good, or to justifie an exception pleaded in abatement or barre of the plaintifffes act. But me thinketh it shoulde rather signifie the act, then the offer or justifying the exception, by divers places where I find it used. For example, *an. 34. Ed. 1. stat. 2.* And the demandant will offer to aver by the assise or Jurie; where to offer to aver and to aver must needs differ: and again in the same *statute*, and the demandant will offer to averre by

the country, &c. thirdly in the English, *nat. br. f. 57.* These errors shall be tried by averment, &c.

Aver pennie (*quasi Average penie*) is money contributed toward the Kings averages. *Rastall* exposition of words. See *Average*.

Augmentation (*augmentatio*) was the name of a court, erected, the seven and twentieth yeare of Henry the 8. as appeareth by the 27. chapter of that years parliament. And the end thereof was, that the King might be justly delt with touching the profit of such religious houses and their lands, as were given unto him by act of Parliament the same yeare not printed. For the dissolving of which court, there was authority given to Queen Mary, by the Parliament held the first yeare of her raigne, *ses. 2. cap. 10.* which she afterward put in execution by her letters patent. The name of the court grew from this, that the revenues of the Crowne were augmented so much by the suppression of the said houses, as the King reserved unto the Crowne, and neither gave nor sold away to others.

Aulne of Renish wine. a. 1. Ed. 6. cap. 13. alias, *Awme of Renish wine.* 1. *Jaco. ca. 33.* is a vessell that containeth forty gallons.

Aulkogeour. See *Almeger*.

Avo, is the name of a writ for the which see (*Ayle.*)

Arnacel

Auncell weight, as I have beeene informed, is a kind of weight with scoles hanging, or hookes fastened at each end of a staffe, which a man lifeth up upon his fore-finger, or hand, and so discerneth the equality or difference betweene the weight and the thing weighed. In which, because there may, and was wont to be great deceit, it was forbidden, anno 25. *Edw.* 3. *stat.* 5. *ca.* 9. & anno 34. *cjusdem*, *cap.* 5. and the even ballance onely commanded; yet a man of good credit, once certified mee, that it is still used in Leaden Hall at London among Butchers, &c. In the derivation of this word, I dare not bee over confident. But it may probably be thought to bee called (*awnsell weight*, *quasi hand scale weight*) because it was and is performed by the hand, as the other is by the beame. And if I should draw it from the Greeke, *ἄγνωστος*, *i. cubitus*. the part of the arme from the elbow to the fingers ends, I might challenge a good warrant of this from the Romanes; who thence derived their (*ancile*) *i. the luckie shield*, that was said to be sent from heaven in a tempest to *Numa Pompilius*, together with a voice, that the citie of *Rome* should be the mightiest of all others, so long as that shield remained in it.

Auncient demeasne (*antiquum dominicum*) is called (more at large) auncient demeasne of the King or of the *Crowne*. *Fitz.nat.* *br.* *fol.* 14. *d.* It commmeth of two French words (*auncium*. *i. veter*, *vetus*, *veteranus*, *antiquus*) and of (*demeaine*, *alias domaine*. *i. publicum vectigal*). It signifieth in our common law, a certaine tenure, whereby all the manors belonging to the *Crowne*, in the dayes of *Saint Edward*, the Saxon King, or of *William the Conquerour*, did hold. The number and names of which manors, as all other belonging to common persons, he caused to be written into a booke, after a survey made of them, now remaining in the Exchequer, and called *Domes day booke*. And those, which by that booke doe appeare, to have belonged to the *Crowne* at that time, and are contained under the title (*Terra regis*) be called auncient demeasn. *Kitchin*, *fol.* 98. and *M. Gwin*. in the Preface to his readings. Of these tenents there were two sorts, one that held their land franckely, by charter, and another that held by copie of court roll, or by verge, at the will of the Lord, according to the custome of the manor. *Fitz.nat.* *br.* *f.* 14. *d.* of which opinion also *Britton* is. *ca.* 66. *nu.* 8. The benefit of this tenure, confisteth in these points: first, the tenents of a manor holding

ding freely by Charter in this sort, cannot be impleaded, out of the same maner: and if they be, they may abate the writ, by pleading their tenure before or after answer made. Secondly, they be free of tolle for all things concerning their sustenance and husbandry. Thirdly, they may not be impanelled upon any enquest. Termes of the Law. But more at large by *Fitz.nat.br.* fol. 14, d. whom reade also, fol. 128, a, &c. And as it appeareth by him, *eodem* fol. 4, b, c, these tenents held by the service of plowing the Kings land, by plashing his hedges, or by such like, toward the maintenance of the kings houſhold; in which regard they had ſuch Liberties given them, wherein, to avoid disturbance, they may have writs to ſuch as take the duties of Tolle in any market or faire, as likewiſe for immunitie of portage, paſſage and ſuch like. *Fitzb. natura brev.* fol. 228, e, b, c, d. By which Authour alſo it appeareth, That no lands be to be accounted Antient Demeasne, but ſuch as are holden in Socage, fol. 13 d, & 14 b, c. See *Monstraverunt*, and *Fitzberb.* fol. 14. and *Deffendo quicquid de telonio*, fol. 226. Elea maketh three tenures holding of the Crown, Antient demeasne, by Escheate, and by Purchase, li. 1.c.2. See *Demaine*.

Auncient Demeſn arere (antiquum

dominicū à retro) is that auncient demeasne which the King granteth over to hold of a mannor, *Kitch.* fol. 67, b.

Avowē (advocatus) see Avowē. Britton saith, that *Avowē* is hee to whom the right of Advozen of any Church appertaineth, ſo that he may present thereunto in his owne name, and is called *Avowē*, for a difference from thoſe that ſometime present in another mans name, as a Gardian that preſenteth in the name of his Ward: and for a difference alſo from them which have the lands wherunto an advozen appertaineth, but only for terme of their lives, or of yeers, or by intuſion or *Diffeſiſiſ*, cap. 92.

Avowrie, see advowry.

Avoir de poix, is in true French, *C avoir du poix, i. habere pondus, aut justiſſe ponderis.* It ſignifieth in our common law two things, firſt a kinde of weight diuers from that which is called Troy weight, containing but twelve ounces to the pound, whereas this containeth fixteene. And in this reſpect it may bee probably conjeſtured, that it is ſo called becauſe it is of more weight than the other. Then alſo it ſignifieth ſuch merchandife as are weighed by this weight, and not by Troy weight, as in the ſtatute of Yorke, anno 9 Edw. 3, in proam. anno 27 Edw. 3. ſtatut. 2, ca. 10. & anno 2

Rich. 2, cap. 1. See *Weights*.

Auxilium ad filium militem faciendum, & filiam maritandam, is a writ directed to the Sheriff of every county, where the King or other Lord hath any tenents, to levy of them reasonable ayde toward the knighting of his son, and the marriage of his Daughter. See *Ayde*, and *Fitzh. Nat. Brev.* fol. 82.

B

Bacheler (*bachilaureus*) com-
meth of the French *bacheli-*
er, i. *tyro*; and thereupon I think,
those that be called Bachelors of
the companies in London, be such
of each company as bee springing
towards the estate of those that be
employed in councell, but as yet
are inferiors. For every company
of the twelve consisteth of a Ma-
ster, two Wardens, the Livery,
which are assistants in matter of
counsel, or at the least such as the
Assistants be chosen out of, and the
Bachelors, which are yet but in ex-
pectance of dignity among them,
and have their function only in at-
tendance upon the Master & wardens.
I have read in an old monu-
ment, this word Bachelor attribut-
ed to the Lord Admiral of Eng-
land, if he be under a baron, in
French words to this effect: And
it is to weet, that when the Admi-
rall rideth to assemble a ship of

war, or other, for the busines and
affaires of the realme, if hee be a
Bachelor, he shal take for his days
wages 4 s. sterlinc: if hee bee an
Earle or Baron, he shall take wa-
ges after the rate of his estate and
degree. This word is used, *an. 13*
R. 2, stat. 2, p. 1, and signifieth as
much as Bachelor knight doth,
anno 3 Ed. 4, ca. 5. that is, a simple
knight, not a knight bameret. See
B meret. Touching the farther ety-
mologie of this word, *Bachalarii*,
teste Renano, à Bacillo nominati sunt
quia primi studii authoritatem, que
per exhibitionem baculi concedebat-
ur, jam consecuti fuerint. Ut fuerit
velut quoddam mancipatio signum in
hujusmodi aliquod studiū baculi traditio. Alciate writeth
the word, *baccalaurei*, *osque dicit*
visos à bacco laurea nomen sumpsisse
in l. cui præcipua 57. de verbo
signis.

Backberond, is a Saxon word,
and almost English at this day, sig-
nifying as much as bearing upon
the backe, or about a man. *Bra-*
ction useth it for a signe or circum-
stance of manifest theft, which the
Civilians call *Furtum manifestum*.
For dividing *Furtum*, *in manifestum & non manifestum*, hee defi-
neth *furgum manifestum* in this
sort: *Furtum vero manifestum est,*
ubi latro deprehensus est seipso de
aliquo latrociniio: sc. baud habend.
& *backberond*, & *insecutus fuerit*
per aliquem eju[m] res illa fuerit. l. 3.
tract.

tract. 2, ca. 32. Master *Manwood* in the second part of his forest lawes, setteth it for one of the fourre circumstances, or cases, wherin a Forrester may arrest the body of an offender against vert or venison in the Forest. For by the assise of the Forest of Lancaster (saith he) taken with the manner is, when one is found in the kings forest, in any of these fourre degrees, sc. Stable stand, Dog draw, Backe bear, and Bloody hand. In which place you may find all these interpreted.

Baile, commeth of the French (*bagage*, i. *sarcina, impedimentum*) It signifieth with us, one that buyeth corne or victuals in one place, and carrieth it into another. See *Cromptons Justice of Peace*, f. 69 et 70.

Baile, or Penne, is a Pond head made up of a great heighth, to keep in a great quantitie or store of water, so that the wheeles of the furnace or hammer belonging to an iron mill, may stand under them, and be driven by the water comming out of them, by a passage or floud gate (called the *Penstocke*) and falling upon the sayd wheeles. This word is mentioned in the statute, an. 27 Eliz. ab. ca. 19.

Baile (*ballium, plevia, manu-captio*) commeth of the French (*bailler, i. attribuire, reddere, tribuere*) It is used in our common law

properly for the freeing or letting at liberty of one arrested or imprisoned upon action either civil or criminall, under surety taken for his appearance at a day and place certaintely assignd, *Bracton lib. 3, tract. 2, cap. 8, num. 8, et 9.* The reason why it is called *Baile*, is because by this meanes the party restrained is delivered into the hands of those that binde themselves for his forth-comming. There is both common and speciaill *baile*. Common *baile* is in actions of small prejudice, or slight proose, beeing called common, because any Sureties in that case are taken: whereas upon causes of greater weight, or apparant specialtie, speciaill *baile* or surety must be taken: as Subsidy men at the least, and they according to the value. Master *Manwood* in his first part of Forest lawes, pa. 167. maketh a great difference betweene *baile* and *Mainprise*, in these words: and note that there is a great diversity between *baile* and *mainprise*. For hee that is *mainprised*, is alwayes sayd to be at large, and to goe at his own liberty out of ward, after that he is let to *mainprise*, untill the day of his appearance, by reason of the said common summons, or otherwise. But otherwise it is, where a man is let to *baile*, by foure or two men, by the Lord chief

chiefe Justice in the Eyre of the forest, untill a certaine day. For there hee is alwayes accounted by the law, to be in their ward & custody for the time. And they may if they will, keepe him in ward or in Prison at that time, or otherwise at their will. So that he which is so bayled, shall not bee sayd, by the Law to be at large, or at his own liberty: see *Lamberts Eiren. lib. 3, ca. 2, pag. 330.* Bayle is also a certaine limit within the Forest, accordingly as the forest is divided into the charges of severall foresters. *Crompton in the Oath of the Bow-bearer, fol. 201.* See *Maynprise.*

*Bayliffe (ballivus) commeth of the French (bailli, i. diacetes, nomarcha, praefectus provincia) and as the name, so the office it selfe, in ancient time was very answerable to that of France and Normandy: for as in France there be sixteene Parlaments, (*Lupanus de Magistratis Francorum, lib. 2. cap. Parliamentum*) which bee high Courts, whence lieth no appeale: and within the precincts of those severall parts of that kingdome, that belong to each Parliament, there be severall provinces, unto which, within themselves, Justice is ministred by certaine officers called Bayliffes: So in England wee see many severall Counties or Shires, within the which Justice*

hath beene ministred to the Inhabitants of each countie, by the officer whom we now call Sheriffe or Vicount (one name descending from the Saxons, the other from the Normans.) And though I cannot expressly prove, that this Sheriffe was ever called a Baylife: Yet is it probable that that was one of his names likewise, because the Countie is called many times (*Balliva*) that is, a Bayliwick: as namely in the returne of a writ with (*Non est inventus*) hee writeth thus: *A. S. infra scriptum, non est inventus in Balliva mea, post receptionem hujus brevis* *Kitchin, returna brevium, fo. 258.* And againe in *Braclon, lib. 3, tract. 2, cap. 33, num. 3.* And anno 5 Eliz. *cap. 23.* and anno 14 Edw. 3. *stat. 1, cap. 6.* And I thinke the word (*Baylife*) used, ca. 28, of *Magna charta*, compriseth as well Sheriffes, as Baylifes of Hundreds: as also anno 14 Edw. 3. *stat. 1. ca. 9.* But as the Realm is divided into Counties, so every county is againe divided into Hundreds: within the which it is manifest, that in antient time the Kings subjects had justice ministred unto them by the severall Officers of every Hundred, which were called Bayliffes, as those officers were and are in France and Normandie, being chiefe officers of justice within every

every Province, *Lupanus de Magistris Francorum, lib. 2. cap. Ballivi.* and the Grand Customary of Normandie, *cap. 1.* And that this is true among many others, I bring *Braeton* for my witnesse, *lib. 3. tract. 2. cap. 34. nro. 5.* where it appeareth that Bailiffes of Hundreds might hold plee of Appeal and Approvers. But sithence that time, these Hundred Courts (certaine Franchises excepted) are by the Statute, *anno 14. Ed. 3. stat. 1. cap. 9.* swallowed into the Countie Courts, as you may reade in *County and Hundred.* And the Bailiffes name and Office is growne into such contempt, at the least, these Bailiffes of Hundreds, that they are now but bare Messengers and Mandataries, within their liberties to serve Writs, and such base offices: their office consisting in three points onely, which see in *Cromptons Justis of Peace, fol. 49. a.* Yet is the name still in good esteeme some other way. For the chiefe Magistrates in divers Townes Corporate be called Bailiffes: as in *Ipswich, Tarmouth, Colchester,* and such like. And againe, there be certaine, to whom the Kings Castles be committed, which are called Bailiffes, as the Bailiffe of *Dover Castle.*

These ordinary Bailiffes are of two sorts: Bailiffes Errant, and Bailiffes of Franchises. Bailiffes Err-

rant (*Ballivi itinerantes*) be those, which the Sheriffe maketh, and appointeth to goe hither and thither in the County to serve writs, to summon the County, Sessions, Assises and such like. Bailiffes of Franchises (*Ballivi Franchiarum aut libertatum*) be those, that are appointed by every Lord within his liberty, to doe such offices within his Precincts, as the Bailiffe Errant doth at large in the Countie. Of these reade *S. Thomas Smith de repub. Anglo. lib. 2. cap. 16.* There be also Bailiffes of the Forest, *Manwood, par. 1. pa. 113.* There be likewise Bailiffes of Husbandry, belonging to private men of great Substance, who seeme to be so called, because they dispose of the under Servants, every man to his labour and taske, checke them for misdoing their businesse, gather the profits to their Lord and Master, and deliver an account for the same at the yeeres end, or otherwise, as it shall be called for. The word *Bailiffe*, or *Ballivus*, is by *Rebuffus* derived from (*Baal. i. dominus, quia Ballivi dominanter suis subditis, quasi eorum magistri & domini. Rebus. in constit. regis, de senten. executionis, art. 7. glos. 1.* The office or duty of a Bailiffe of a Mannor or Household (which in ancient time seemeth to have beene all one) *Fletz* well describeth, *li. 2. ca. 72. & 73.* This word

is also used in the Canon law, c. 2.
dilectio de sentent. excom. in sexto & ca. 1. de pœnit. in Clement. where the Glossographer sayth it is a French word, signifying as much as *propositus*; and *Bailia* or *Balivatum* is used among our later interpreters of the Civill and Canon Law, for *Provincia*, as *Balliva* heere in England, is used for a County or Shire.

Balkers, See *Conders*.

Bailio amovento, is a writ to remove a Bailife out of his office, for want of sufficient living within his Bayliwick. *Reg. or. fo. 178.*

Bane seemeth to signify the destruction or overthrow of any thing. *Braet. l. 2, traet. 2, ca. 1, nu. 1.* as he which is the cause of another mans drowning, is sayd there to be *La bare, i. Malefactor*. In that *Besetton* in the place aforesaid prefixeth a French article to this word, it should seem by his opinion that the word is French; but I finde it not in any French writer that ever I read.

Baneret (*baneretus*) in M. *Skene's* opinion, seemeth to be compounded of *bauer* and *rent*: whome read more at large of this, *verbo Baneret, de verbo sign.* But our M. *Camden* rather draweth the word from the German *Banerheires*, *Britan. pag. 109, in meo libro.* S. *Thomas Smith de republ. Angl. li. c. 18,* saith, That *Baneret* is a Knight made in the field, with the ceremony of

cutting off the point of his Standard, and making it as it were a Banner: and they beeing before Bachelors, are now of greater degree, allowed to display their armes in a banner in the kings army, as Barons doe. M. *Camden ubi supr.* hath these words of this matter: *Baneretti cum vassorum nomen jam desierat, à baronibus secundi erant: quibus indutum nomen à vexillo. Concessum illis erat militaris virtutis ergo, quadrato vexillo (perinde ac barones) nati, unde & equites vexillarii à nonnulis vocantur, &c.* Of creating a knight baneret you may reade farther in *M. Seg. r. Norrey* his booke, *lib. 2, c. 10.* That they be next to Barons in dignitie, it appeareth by the statute *anno 14, R. 2. ca. 11.* and by *anno 5 R. 2. statut. 2, ca. 4.* it may be probably conjectured, that they were anciently called by summons to the court of Parliament. And *ann. 13 R. 2, stat. 2, c. 1.* we finde, That a Baneret for praying a pardon for a murtherer, contrary to that statute, is subject to all one punishment with a Baron. *Joh. n. Gregorius Tholesanus, li. 6, ca. 10, sui syntagmatis, num. 9.* hath these words, *In Gallia sunt due species affines nobilium & fendorum, quas dicunt de bennertz, & barons: bennertzus jure sue dignitatis, antequam talis dici mereatur, nobilis esse debet genere, in quarto gradu, possidens*

dens in ditione decem scutarios bachelarios armorum, id est, decem vasallos, habens sufficiens patrimonium quo possit secum ducere quatuor aut quinque nobiles comites continuos, cum equitibus daodecim aut sexdecim. Fit autem Benneretus, si m princeps huiusmodi persona concedit vexillij iur, & ex exilio peditum in acie, vel extra die solenni, sacris peractis, adimit acuminis. Vocant la queve de pennon, siveque labarum, i. equitum vexillum, vocant cornette eumque equitem facit, si jam non est. Quod si dictior his fiat benneretus, et habet unam benneretam, aut sex e quites bachelarios, qui possideat singuli in censu sexcentas libras ex eius ditione seu fendo, tunc possunt ex lectione principis, baronis nomen sibi adsciscere.

Bans (*bannus vel bannum*) signifieth a publicke notice given of any thing. The word is ordinary among the Feudists, and grown from them to other uses : as to that which we here in England call a proclamation, whereby any thing is publiquely commannded or forbidden. *Vincentius de Francia*, *descis. 521, & 360*. Hotomay verbo *bannus*, in verbis feudalibus, saith, that there is both *bannus* and *bannum*; and that they signifie two divers things. His words are these : *Bannus* sive *bannū* dno significat: *Edictum*, qua die vasallus equis armisq; instructi, ad comitatum adesse debent: & *sanc̄tionem*, hoc est,

multam edictio non parentis: which hee confirmeth by divers authoritie. This word *bans* we use here in England, especially in the publishing of matrimonial contracts in the Church, before mariage, to the end that if any man can say against the intention of the parties, either in respect of kindred or otherwise, they may take their exception in time. And in the Canon law, *Banna sunt proclama tiones sponsi et sponsae in ecclesiis fieri solite, ca. 27. extra de sponsal. et ca. ult. qui matrimonium accus. pos. & ca. ult. de clan. defons.* Yet our word (*Banning*) seemeth to come thence, being nothing but an exclamation of another. Onely *Braeton* once maketh mention of *Bannus Regis*, for a proclamation, or silence made by the Crier, before the congresse of the Champions in a combat, *Lib. 3, tract. 2, cap. 21.*

Bank (*banus*) commeth of the French *Banque*, i. *mensa*. In our Common law it is most usually taken for a seat or bench of judgement : as *bank le Roy*, the kings bench, *bank de Common plees*, the Bench of Common plees, or the common Bench, *Kitchin* fol. 102. called also in Latine, *bancus regius* & *bancus communium plaeitorum*. *Crompt. jurif. fo. 67 & 91. Camden* in his *Britannia*, pag. 112 & 113, in meo, calleth them also, *Bancum regium*, & *Bancum com-*

communem. See *Frank bank.*

Bankrupt (*alias bankrout*) com-
meth of the French (*banque route*)
and (*faire banqueroute*) with the
French, is as much as *foro cedere,*
solum vetere) with the Romanes:
The composition of the French
word I take to be this, (*banque*, i.
mensa) & (*route*, i. *vestigium*) meta-
phorically taken from the signe
left in the earth, of a table once
fastned unto it, and now taken
away. So that the originall see-
meth to have sprung from those
Romane (*mensarum*) which, as ap-
peareth by many writers, had
their (*tabernas* & *mensas*) in certain
publique places, whereof when
they were disposed to fly, and de-
ceive men that had put them in
trust with their monies, they left
but the signes or carkasses behinde
them. I know that others of good
learning, and *M. Skene* for one,
bring this (*à banco rupio*) but the
French word worketh in mee this
other opinion, for after their
fence, the French should rather be
banque rompu. Bankerupt with
us signifieth him or his act, that
having gotten other mens goods
into his hands, hideth himselfe in
places unknowne, or in his owne
private house, not minding to pay
or restore to his creditours their
duties. anno 34 Hen. 8, cap. 4.
where the French phrase (*Faire
banque route*) is translated to the
word, to make Bankerupt. A

Bankerupt, anno 1 Jacobi, ca. 15.
is thus described: All and everie
such person and persons, usyng, or
that shall use the trade of mer-
chandise, by way of bargaining,
exchange, bartery, chevisance, or
otherwise in grosse, or by seeking
his, her, or their trade of living, by
buying and selling, and beeing a
subject borne of this realme, or
any the kings dominions, or Deni-
zen, who at any time since the first
day of this present parliament, or
at any time hereafter, shall depart
the realme, or begin to keepe his
or her house or houses, or other-
wise to absent him or her selfe, or
take Sanctuarie, or suffer him
or her selfe willingly to be arrested
for any debt, or other thing,
not growne, or due, for mo-
ney delivered, wares sould, or
any other just or lawfull cause, or
good consideration, or purposes,
or hath or will suffer him or her
selfe to be outlawed, or yeld him
or her selfe to prison, or wil-
lingly or fraudulently hath or
shall procure him or her selfe
to bee arrested, or his or her
goods, money, or chattels to be at-
tached or sequestred, or depart
from his or her dwelling house, or
make or cause to bee made any
fraudulent grant or conveiance of
his, her, or their lands, tenements,
goods, or chattels, to the intent, or
whereby his, her, or their credi-
tors, being subjects borne, as a-
fore-

foresyd, shall or may be defeated or delayed for the recovery of their just and true debt: or being arrested for debt, shall after his or her arrest, lye in prison fixe moneths or more, upon that arrest, or any other arrest or detention in prison for debt, and lye in prison fixe moneths upon such arrest or detention, shall bee accounted and adjudged a Bankrupt to all intents and purposes.

Banishment (*exilium, abjuratio*) commeth of the French (*bannissement*) and hath a signification knowne to every man. But there be two kinds of banishments in England: one voluntary and upon oath, whereof you may reade (*Abjuration:*) the other upon compulsion for some offence or crime: as if a lay-man succor him that having taken Sanctuarie for an offence, obstinately refuseth to abjure the Realme, hee shall loose his life and member: if a Clerke doe so, he shall be banished. *Saints pl. c. fel. 117.* This punishment is also of our moderne Civilians called (*bannimentum*) which was aunciently termed (*deportatio*) if it were perpetuall, or (*religatio in insulam*,) if for a time, *Vancentius de Franchis. Petrus de Belluga in suo speculo, sol. 125. num. 4.*

Barbaries (*Oxyoamiba*) is a thornie shrub knowne to most

men to beare a berry or fruit of a sharp taste. These berries(as also the leaves of the said tree) be medicinable, as *Gerard* in his *Herball sheweth, lib. 3. cap. 21.* You find them mentioned among *Drugges* to bee garbled, *Anno 1. Jacob. cap. 19.*

Bard, alias Beard. See *Clack.*
Bargaine and Sale, as it seemeth by *West. part. 1. symb. lib. 2. sect. 436.* is properly a contract made of manors, lands, tenements, hereditaments, and other things, transferring the property thereof from the bargainer to the bargaine. But the Author of the new termes of Lawe addeth, that it ought to be for money: saying farther, that this is a good contract for land, &c. and that Fee-simple passeth thereby, though it be not said in the deed (To have and to hold the land to him and to his heires,) and though there bee no liverie and seisin made by the seller, so it be by deed indented, sealed, and enrolled, either in the Countie where the land lyeth, or within one of the Kings Courts of Records at Westminster, within sixe moneths after the date of the Deed indented, *anno 27. H. 8. cap. 16.*

Barkarie (*Barkaria*) is a heath house. New booke of Entries, *titulo Assise corp. polit. 2.* Some call it a Tan-house.

Baron (*Baro*) is a French word, and hath divers significations here in *England*. First, it is taken for a degree of Nobilitie next unto a *Vicount*, *Braclton lib. 1. cap. 8. num. 4.* where he sayth, they be called *Barones, quasi roburi belli*. And in this signification it is borrowed from other Nations, with whom *Baronie* be as much as *Provincie*, *Petrus Belluga in speculo princip. fol. 119.* So *Barones* be such, as have the government of Provinces, as their Fee holden of the King: some having greater, some lesser authoritie within their territories, as appeareth by *Vincensius de Francia*, in divers of his disceissons, and others. Yet it may probably be thought, that of old times here in *England* all they were called Barons that had such Seignories, as we now call Court-barons, as they be at this day called *Seigneurs* in *France*, that have any such Mannor or Lordship. Yea, I have heard by men very learned in our Antiquities, that neere after the Conquest, all such came to the Parliament, and sat as Nobles in the upper-house. But when by experience it appeared, that the Parliament was too much pestered with such multitudes: it grew to a custome, that none should come but such, as the King, for their extraordinary wisedome or qualite, thought good to call by writ;

which writ rannc (*bac vice tantum.*) After that againe men seeing this estate of Nobilitie to be but casuall, and to depend mere-ly upon the Princes pleasure, they sought a more certaine hold, and obtained of the King, letters patents of this dignitie to them and their heires male. And these were called Barons by letters patents or by creation: whose posteritie, be now by inheritance and true descent of Nobilitie, those Barons that bee called Lords of the Parliament: of which kind the King may create more at his pleasure. It is thought nevertheless, that there are yet Barons by writ, as well as Barons by letters patents, and that they may be discerned by their titles: because the Barons by writ are those, that to the title of *Lord* have their owne surnames annexed, as *Crompion, North, Norice, &c.* whereas the Barons by letters patents, are named by their Baronies. These Barons which were first by writ, may now justly also bee called Barons by prescription, for that they have continued Barons in themselves and their aucestors time, beyond the memory of man. The originall of Barons by writ *Mastr Camden* in his *Britannia*, pag. 109. in meo, referreth to *Henry the third:* Barons by letters patents or creation (as I have heard among our

our Antiquaries) were first created about the dayes of Henry the sixth : the manner of whose creation reade in *Master Stowes Annals*, pag. 1121. Of all these you may also reade *Master Fe-
rus* glory of Generositie, pa. 125. & 126. And see *M. Skene de ver.
signis. verb. Baro.* with Sir *Thomas
Smith*, lib. 1. de repub. Anglor. cap.
17. who saith, that none in Eng-
land is created Baron, except he can dispend a thousand pound
by yeare, or a thousand markes at
the least. To these former *Master
Seager* (by office) *Norrey*, lib. 4.
cap. 13. of *Honour civil and mili-
tarie*, addeth a third kind of Ba-
ron, calling them Barons by te-
nure, and those be the Bishops of
the land : all which, by vertue of
Baronies annexed to their Bi-
shopricks, have alwaies had place
in the upper house of Parliament,
and are termed by the name of
Lords Spirituall.

Baron in the next signification
is an Officer : as Barons of the
Exchequer ~~be~~ to the King : of
which the principall is called
Lord chiefe Baron (*capitalis Ba-
ro*) and the three other (for so
many there be) are his Assistants
in causes of Justice, betweene the
King and his subiects, touching
causes appertaining to the Ex-
chequer.

The Lord chiefe Baron at this
day, is the chiefe Judge of the

Court, and in matter of Law, In-
formation, and Plea, answereth
the Barre, and giveth order for
judgement thereupon. He alone
in the Terme time doth sit upon
Nisi prius, that come out of the
Kings Remembrancers office, or
out of the office of the Clerke of
the Pleas, which cannot be dis-
patched in the mornings for want
of time. He taketh recognis-
ances for the Kings debts, for ap-
pearances, and observing of orders.
He taketh the presentation of all
the officers in Court under him-
selfe, and of the Major of Lon-
don, and seeth the Kings Remem-
brancer to give them their oaths.
He taketh the declaration of cer-
tain receivers accounts of the
lands of the late augmentation,
made before him by the Auditors
of the Shires. He giveth the two
parcell makers places by vertue
of his office.

The second Baron in the ab-
sence of the Lord chiefe Baron,
answereth the Barre in matters
aforesaid : he also taketh recognis-
ances for the Kings debts, ap-
parences, and observing of or-
ders. He giveth yearly the oath
to the late Major and Escheatour
of London for the true account
of the profits of his office. He ta-
keth a declaration of certaine re-
ceivers accounts. He also ex-
amineth the letters and summes
of such Sheriffes forraigne ac-
counts,

counts, as also the accounts of Escheatours and Collectours of Subsidies and Fifteenes, as are brought unto him by the Auditors of the Court.

The third Baron in the absence of the other two, answereth the barre in matters aforesaid, he also taketh recognisances, as aforesaid. He giveth yearly the oath of the late Major and Gawger of London for his true accounting. He also taketh a declaration of certaine receivers accounts : and examineth the letters, and sums of such of the former accountants, as are brought unto him.

The fourth Baron, is alwayes a Coursetour of the court, and hath beeene chosen of some one of the clerks in the remembrancers offices, or of the clerke of the Pipes office. He at the dayes of prefixion, taketh oath of all high Sheriffs and their under Sheriffs, and of all Escheatours, Bailiffs, & other accountants, for their true accounting. He taketh the oath of al Collectours, Controllers, Surveyours and Seachers of the Custom houses, that they have made true entrances in their booke. He apposeth all Sheriffs upon their Summons of the Pipe in open Court. He informeth the rest of the Barons, of the course of the Court in any matter that concerneth the Kings Prerogative. He likewise, as the other Barons, taketh the

declaration of certaine receivers accounts: and examineth the letters and sums of such of the former accountants, as are brought unto him.

These Barons of the Exchequer, are ancient officers : for I find them named, *Westm. 2. cap. 11. anno 13. Ed. 1.* and they be called Barons, because Barons of the realme were wont to be employed in that office, *Fletali. 2. ca. 24. S. Thomas Smith saith of them, that their office is to looke to the accounts of the Prince : and to that end, they have Auditors under them : as also to decide all causes, appertaining to the Kings profits, comming into the Exchequer by any meanes.* This is in part also proved by the statute, *anno 20. Ed. 3. ca. 2. & anno 27. ejusd. stat. 2. ca. 18. & anno 5. R. 2. stat. 1. ca. 9. & 12. & anno 14. ejusd.ca. 11.* And hereupon they be of late, men learned in the common law of the realme : whereas in ancient times they were others : *viz. majores & discretiores in regno, sive de clero essent, sive de cunaria. Ockam in his lucubrations de fisci regii ratione. Horn in his maner of Justices saith, that Barons were wont to be two, and they Knights, ca. De la place del Eschequier.*

Then be there in this signification, Barons of the Cinque Ports, *anno 31. Ed. 3. stat. 2. ca. 2.*

& anno 33. H.8. cap. 10. which are two of every of the seven towns, Hastings, Winebelsey, Rye, Ramney, Hithe, Dover, and Sandwich, that have places in the lower house of Parliament, Crompton's Jurisd. fo. 28. Baron in the third signification, is used for the husband in relation to his wife : which is so ordinary in all our law writers, that write in French, as it were superfluous to confirme it by any one.

Baronet. I read this word, *an.* 13. R. 2. stat. 2. ca. 1. But I hold it falsly printed for *Baronet*, or else to signific all one with it.

Baronye (*baronia, baronagium*) is the fee of a Baron. In which account are not onely the fees of Temporal Barons, but of Bishops also : who have two respects : One, as they are Spirituall men, without possessions, as was the Tribe of *Levise* among the Israelites, being susteined by the onely Firstfruits, and Tenthys of the other Tribes, *Josb. cap. 13. vers. 14.* The other respect they have, groweth from the bountie of our English Kings, whereby they have Baronies at the least, and are thereby Barons or Lords of the Parliament. This Baronie (as *Braston* saith, *li. 2. ca. 34.*) is a right indivisible: and therefore if an Inheritance be to be divided amoung Co-parteners : Though some capitall messuages may be

divided : yet, *si capita le messuagi-um sit caput Comitatus, vel caput Baronie*, he saith they may not be parcelled : The reason is, *ne sic caput per plures particulas dividatur, & plura jura comitatum & baroniarium deviant ad nihilum : per quod deficiat Regnum, quod ex Comitatibus & Baronis dicitur esse constitutum.*

Barre (*barra*) commeth of the French (*barre*) or *barriere* (i. *repaglium, obex, vectis.*) It is used in our common law, for a peremptory exception against a Demand or plaint: and is by the Author of the termes of Law, defined to be a Plee brought by the Defendant in an Action, that destroyeth the Action of the Plaintiff for ever. It is divided into a Barre to common intent, and a Barre speciall. A Barre to a common intent, is an ordinary or generall Barre, that ordinarily disableth the Declaration or Plee of the Plaintiff. A Barre speciall, is that which is more than ordinary, and falleth out in the case in hand, or question, upon some speciall circumstance of the fact, *Plowden, casu Colkirst, fol. 26. a.b.* For example, an Executor being sued for his Testators debt, pleadeth, that hee had no goods left in his hands, at the day when the writ was purchased or taken out against him. This is a good barre to common intent, or (*pri-*

*m*s* fascie.) But yet the case may so fall out, that more goods might come to his hands; sithence that time: which if the Plaintiff can shew by way of replication, then except hee have a more especiall plee or barre to alledge, he is to be condemned in the action. See also *Plowden* in the case afore named, fo. 28. a. b. and *Broke, titulus.* *Barre.* no. 101. and *Kitebin,* fo. 215. Barre also in the same significati-
on, is divided into barre materi-
all, and barre at large, *Kitchbin,* fo.
68. A barre materiall (as it seemeth) may otherwise be called a barre speciall: as when one in the stop of the Plaintiffes Action, pleadeth some particular matter, as a descent from him that was the undoubted owner, a Feoffment made by the An-
cestor of the Plaintiff, or such like. A bar at large is, when the tenant or defendant by way of excep-
tion, doth not traverse the Plaintiffes title by pleading *not guilty*, nor confesseth and avoid it, but onely maketh to himselfe a title in his barre. As if in an Assise of *novel disseisin*, the tenant plead a Feoffment of a stranger unto him, and gives but a colour onely to the Plaintiff. Of this there is an apt example to be found. 5. *H. 7. fol. 29.**

Barre, is also in regard of the effect, divided into *barre perpe-
tual* and *barre pro tempore.* *Perpetu-*

all is that, which overthroweth the action for ever. *Barre pro tem-
pore* is that, which is good for the present, and may faile here-
after: looke an example or two in *Broke titu.* *Barre.* no. 23. where he saith, that to plead (*plene admi-
nistavit*) is good, untill it may appeare, that more goods come to the Executors hands after-
ward, which also holdeth for an heire, that in an action of his An-
cestors debt pleadeth (*rien per dis-
cent.*) This word is also used for a materiall *bar*: as the place where Sergeants or Councillers stand to plead causes in Court, or Prisoners to answer to their Indict-
ments. Of which our common Lawyers, that be licensed to plead, in other countries called (*licentia-
ti*) are termed *Baristers*, anno 24. *H. 8. cap. 24.*

Barrator (*barefator*) commeth from the French (*barat.* i. *astutia*) and is neere the French it selfe in signification. For (*barateur*) in that tongue betokeneth a deceiver: and a barrator in our common law, is a common wrangler, that setteth men at odds, and is himselfe never quiet, but at brawle with one or other. To this effect you may read *M. Lamberds Eirenarcha.* pa. 342. who saith likewi.e, that *ba-
rator* (for so he writeeth it) may seeme to come from the Latine (*baratro*) or (*balatro*) that is, a vile knave or unthrifte, and (by a me-
taphor)

taphor) a spot in a Commonwealth. See the statute of *Champerie*, anno 33. Ed. 1. stat. 2. cap. uniuersitatis, and *Wist.* 1. ca. 32. an. 3. Ed. 1. 11. *Skene de verb. signif. verbo, barratrie,* saith that Barrators be Symonists called of the Italian word (*barrataria*) signifying corruption or bribery in a Judge giving a false sentence for money: whom you may read more at large: as also *Hortensius & avaleanus*, in his tractat, *de brachio regis*. parte 5. no. 66. whose words are: *Barataria verò dicitur, quando Iudex aliquid petit indebitum, ut iusticiam faciat.* Who also, no. 195. part. 5. saith thus: *burraterij appellantur, qui pretorium nimis frequentant.* And in another place of the same worke. *Barataria dicitur, quis sit quoddam barratum.* i. *committatio pecunia cum iustitia, &c.* See also *Egidius Bossius in proelii ca criminali, titulo de officialibus corrupti. &c.* no. 2. & 6. *Baratariam committunt, Judices, qui iusticiam auro vendunt.* *Paris Puteela de syndicatu, verbo Barataria, pa. 217.*

Barre fee, is a fee of twentie pence, that every prisoner acquitted of felony paith to the Gaoler. *Crompt. Justice of peace, fo. 158. b.*

Barrell, is a measure of wine, oyle, &c. containing the eighth part of a tunne, the fourth of a pipe, and the second of a hogshead, that is, 31. gallons and a halfe, anno 1. R. 3. cap. 13. *Bur-*

this vessell seemeth not to containe any certaine quantitie, but differeth according to the liquor: for a barrell of beere containeth 36. gallons, the Kilderkin 18. and the Firkin 9. a barrell of ale 32. gallons, the kilderkin 16. and the firkin, 8. gallons, anno 23. H. 8. c. 4. *Barriers*, commeth of the French (*barres*) and signifieth with us that which the French men call (*jeu de barres. i. palestram*) a martiall sport or exercise of men armed and fighting together with short swords, within certain limits or lists, wherby they are severed from the beholders.

Barter, may seeme to come of the French (*barater. i. circumvenire.*) It signifieth in our statutes, exchange of wares with wares. anno 1. R. 3. ca. 9. and so bartry the substantive, anno 13. Eliz. a. cap. 7. The reason may be, because they that chop and change in this manner, doe what they can for the most part, one to over-reach the other. See *barratour.*

Base estate, is in true French (*bas estat.*) It signifieth in our common law, that estate which base tenents have in their lands. Base tenents be they (as M. Lambard saith in his explica. of Saxon words, verb. *Paganus*) which do to their Lords villanous service. The author of the termes of law in his *Tractat of old termes*, saith that to hold in fee base, is to hold at the

the will of the Lord, *Kitchin*, fol. 41. seemeth to make base tenure and francke to be contraries: where it appeareth, hat hee putteth Copy-holders in the number of base tenents. And out of these, I thinke, that it may be probably conjectured, that every base tenent holdeth at the will of the Lord, but yet, that there is a difference betweene a base estate, and villenage; which *Fitzb.* in his *nat. br. f. 12. B.C.* seemeth to confound. For the above named Author of the termes of law saith in the place before cited, that to hold in pure villenage, is to doe all that the Lord will command him. So that if a Copie-holder have but base estate, he not holding by the performance of every commandement of his Lord, cannot be said to hold in villenage. Whether it may be said, that Copy-holders, be by custome and continuance of time, growne out of that extreame servitude, wherein they were first created, I leave to others of better judgement: but *Fitzb.* *loco citato* saith, tenure by Copie is a terme but lately invented.

Base Court, is any Court that is not of record, as the Court baron. Of this read *Kitchin*, f. 95, 96, &c.

Base fee. See *Base estate*.

Bastard (*bastardus*) in the statut. an. 12. R. 2. c. 6. signifieth a weapon, which *M. Speight* in his

exposition upon *Chamer*, calleth *pugionem vel sciam*.

Bastard (*bastardus*). See *Bastardy*. And see *Skene de verbo*, signif. verbo *Bastardus*.

Bastardy (*bastardia*) commeth of the French (*bastard*. i. *notius*) *Gassanens de conjunctu*. *Burg. pag. 116.* saith (*bastard*) and (*filius naturalis*) be all one. *Bastardy* in our common law, signifieth a defect of birth, objected to one begotten out of wedlock. *Braft. l. 5. cap. 19. propositum*. How *Bastardy* is to be proved, or to be inquired into, if it be pleaded, see *Rast. booke of Entries*, tit. *Bastardy*, fol. 104. *Kitchin*, fol. 64. maketh mention of *Bastardy speciall*, and *Bastardy generall*. The difference of which is, that *Bastardy generall*, is a Certificate from the Bishop of the Diocese to the Kings Justices, after just enquiry made, that the party inquired of, is a *Bastard* or not a *Bastard*, upon some question of inheritance. *Bastardy speciall*, is a suit commenced in the Kings Court, against him that calleth another *Bastard*: so termed (as it seemeth) because *Bastardy* is the principall and especiall case in triall, and no inheritance contended for. And by this it appeareth, that in both these significations, *Bastardy* is rather taken for an explanation or triall, whether a mans birth be defective or illegitimat, then

it selfe. See *Broke. titulo. Bastardy.*
v. 29. and *Doctor Ridlies booke.*
pa. 203, 204.

Bastion, is in French a staffe, club, or coulestaffe. It signifieth in the statutes of our Realme, one of the Warden of the Fleet his servants or officers, that attendeth the Kings court with a red staffe, for the taking of such to ward, as bee committed by the court. So it is used, anno 1. R. 2. ca. 12. anno 5. Eliz. ca. 23.

Batable ground, seemeth to be the ground in question heretofore, whether it belonged to England or Scotland, lyng betweene both the Kingdomes. anno 23. H. 8. cap. 16. as if wee should say, debatable ground. For by that name *la. Scena de verbo. sign. verbo Plegis*, calleth ground, that is in controversie betweene two.

Battell (*duellum*) commeth of the French (*bastaille. i. bellum, pre-latum*) and signifieth in our common law, a triall by combate. The manner whereof because it is long, and full of ceremonies, I doe for the better and more full understanding of it, referre you to *Glanville*, lib. 2. cap. 3, 4, 5. to *Bracton*, lib. 3. tract. 2. cap. 21. fol. 140. to *Britton*, cap. 22. and to *S. Thomas Smith de repub. Anglorum*, li. 2. cap. 7. & lib. 3. cap. 3. See *Combat*.

Battery commeth of the French (*bastir. i. verberare, cudere, percus-*

tere) and signifieth in our common law, a violent striking of any man, which the Civilians call *injuriam personalem, quia persona insertur per verbera, cruciatum, &c.* *Wesemb. prst. n. de Injur. & fam. libel.*

Baubels (*baubellz*) is an old word, signifying Jewels. *Ro. Heveden parte poster. suorum annal. fo. 449. b.*

Bearding, alias, Barding of wool. See *Clack*.

Bearers, signifie all one with Maintainers, anno 20. *Edwar. 3. cap. 5.*

Beconage (*Beconagium*) signifieth money paid for the maintenance of Becons.

Bewpledere (*pulchre plicitando*) is made of 2. French words (*beau. i. decorus, formosus, pulcher*) and (*pledere. i. dispatare, & canjam agere*:) It signifieth in our common law, a writ upon the statute of *Marlbridge* or *Marborow*, made the 2. yeare of H. 3. ca. 11. whereby it is provided, that neither in the circuit of Justices, nor in Counties, Hundreds, or Courts-baron, any fines shall be taken of any man for faire pleading, that is, for not pleading fairely or aptly to the purpose. Upon which Statute, this writ was ordained against those, that violate the law herein. See *Fitzh. nat. br. fol. 270. A.B.C.* whose definition is to this effect: the writ upon

the Statute of *Marlebridge* for not faire pleading, I, eth where the Shyreeve or other Bailiffe in his Court, will take fine of the partie plaintiffe or defendant, for that he pleadeth not fairely, &c.

Bedell (*Bedellus*) commeth of the French (*bedeau. i. apparitor*) and it signifieth with us, nothing else but a messenger or servitour belonging to a Court, as a Court-baron or Leet, *Kitebin*, fol. 46. where you may see his oath: or to the Court of the Forest, *Manwood parte pri.* of his Forest lawes, pag. 221. in these words: A Bedell is an officer or servant of the Forest, that doth make all maner of garnishments of the Courts of the Forest, and also all maner of Proclamations, as well within the Courts of the Forest as without: and also doth execute all the processses of the Forest. He is like to a Bailiffe errant of a Shyreeve in a Countie, &c.

Benefice (*Beneficium*) is generally taken for all ecclesiastical livings, be they dignities or other, as anno 13. R. 2. stat. 2. ca. 2. where benefices are divided into elective, and benefices of gift. So is it used in the Canon lawe also. *Duarenus de beneficiis*, lib. 2. cap. 3.

Beneficio primo ecclesiastico habendo, is a writ directed from the King to the Chancelor, to bestow the benefice that first shall

fall in the Kings gift, above or under such a value, upon this or that man, *Regist. orig. fol. 307. b.*

Benevolence (*Benevolentia*) is used both in the Chronicles and Statutes of this Realme, for a voluntarie gratuitie given by the subjects to the King. *Looke Stowes annals*, pag. 701. That it hath beene something anciently accustomed, it appeareth by him and by the Statute anno 1. Ric. 3. cap. 2. where it is called a new imposition: and in that respect reprehended by that tyrant in his predecessors: whether justly or not, I cannot say; nor mind to dispute. *Fut Stow*, pag. 791. saith, that the invention grewe from Edward the fourths dayes. You may find it also, anno 1. L. H. 7. ca. 10. to have beene yeelded to that worthy Prince, in regard of his great expences in warres and otherwise. This is also mentioned and excepted out of the pardon, anno 1. Ed. 6. cap. 15. It is in other Nations called (*subsidium charitativum*) given sometime to Lords of the fee, by their tenents, sometime to Bishops by their Clergie. *Matthaeus de Afflictis*, *descis.* 136. *Cassian. de consuet. Burg.* pag. 134. 136. *Baldus constitio.* 120. vol. 6. pag. 230. Of this *Menochius* maketh mention, lib. 2. centur. 2. cap. 178, & 179. shewing, when it is lawfull for a Prelate *charitativum subsidium à sibi subditis exigere*, & *quanta*

quanta debet esse ejus summa, setting downe eight just causes of this exactiōn.

Besaile (*prosum*) is borrowed of the French (*bisayenl. i. le pere de mon pere grand*) the father of my grandfather. In the common law it signifieth a writ, that lieth where the great grand-father was seised in his demesne as of fee, of any lands or tenements in fee-simple, the day that hee dyed, and after his death a stranger abateth, or en-reth the same day upon him, and keepeth out his heire, &c. The forme and farther use of this writ, reade in *Fitz. nat. br. fol. 221. D. E. F. &c.*

Beastes of chace (*Fera cimpeſtres*) be five of the Forest, chace, or parke: that is, the Bucke, the Doe, the Foxe, the Martron, and the Rot, *Manwood part. prim. of his Forest lawes, pag. 342. & part. 2. cap. 4. num. 2.*

Beastes of the forest (*ferae sylvestres*) are the Hart, the Hind, the Hare, the Boare, and the Wolfe, *Manwood parte 2. of his Forest lawes, cap. 4. num. 1.*

Beastes and Fowles of Waren, are the Hare, Conie, Felant, and the Partridge, *Manwood parte 2. cap. 4. num. 3.*

Bestaile, commeth of the French (*bestial. i. pecus*) it seemeth with us to signifie all kind of cattell taken for the Kings

provision, *anno 4. Ed. 3. cap. 3.* And bestiall is generally used for all kind of cattell, *anno 1. Jacobi cap. 33.*

Bidding of the Beades, was a charge or warning, that the parish Priest gave to his parishioners, at certaine especiall times, to say so many *Pater nosters, &c.* upon their beades, *anno 27. H. 8. cap. 26.*

Bigamie (*bigamia*) signifieth a double marriage. It is used in the common law, for an impediment that hindreth a man to be a Clerke, by reason that he hath beene twice married. For upon those words of *S. Paul to Timothee* the first *cap. 3. vers. 2. (Oportet ergo Episcopum irreprobensibilem esse, & unius uxoris virum:)* the Canonists have founded their doctrine, that he that hath beene twice married, may not bee a Clerke. And also him that hath married a widow, they by interpretation, take to have beene twice married. And both these they doe not onely exclude from holy orders, but also deny them all priviledges that belong unto Clerkes. But the author of the new termes of Law well saith, that this Law is abolished by *anno 1. Ed. 6. cap. 12.* And to that may be added the statute, *anno 18. Elizab. cap. 7.* which alloweth to all men that can read as Clerkes, though not within

orders, the benefit of Clergie in case of felonie not especially excepted by some other statute.

Bilancis deferendis, is a writ directed to a corporation, for the carrying of weights, to such or such a haven, there to weigh the wools that such a man is licenced to transport, Reg. orig. f. 270. a.

Bilawes, are orders made in court Leets or court Barons by common assent, for the good of those that make them, farther then the publike law doth bind. Coke vol. 6. fo. 63 a. Kitchin fo. 45. & 79. These in Scotland are called (*burlaw*) or (*birlaw*). *Skene de verbo sign. verbo Burlaw*: where he sayth thus: Lawes of *burlaw*, are made and determined, by consent of neighbours elected and chosen by common consent, in the Courts called *birlaw* courts. In the which cognition is taken of complaints betwixt neighbour and neighbour: which men so chosen, are Judges and Arbitrators to the effect aforesaid, and are called *birlaw men*. For (*bawer*) or (*bawerman*) in Dutch is (*rusticus*) and so (*birlaw*) or (*burlaw*) *leges rusticorum*. Hitherto M. *Skene*.

Bilinguis, though it signifie in the generalitie a double tongued man; yet in our common law, it is used for that Jury, that passeth betweene an English man and an alien. Whereof part must be En-

glishmen, and part strangers, anno 28. Ed. 3. ca. 13.

Bille (*bill*) is diversly used among our common lawyers. First, (as *West* saith p. 1. symb. li. 2. sect. 146. it is all one with an obligation, saving that when it is in English it is commonly called a bill, and when it is in latin an obligation. But I heare other good lawyers say, that a bill, though it be obligatorie, yet is without condition or forfeiture for *non payment*: & that the obligation hath both. Bill secondly, is a declaration in writing, that expresseth either the grieve and the wrong that the complainant hath suffered, by the partie complained of, or els some fault, that the partie complained of, hath committed against some law or statute of the Common-wealth. This bill is sometime offered up to Justices errants in the generall assises: sometime, and most of all, to the Lord Chancelor of *England*, especially for unconscionable wrongs done, sometime to others having jurisdiction, accordingly as the law, whereupon they are grounded, doth direct. It containeth the fact complained of, the damages thereby suffered, and petition of processe against the defendant for redresse. *West*. parte 2. *Symbol. titulo supplications*, sect. 52. whom you may reade at large touching this matter.

Billa vera, is (as it were) a word of art in our common law. For the grand enquest empaneled and sworne before the Justices in Eyre, &c. indorsing a bill, whereby any crime punishable in that Court, is presented unto them, with these two words; doth signify thereby, that the presenter hath furnished his presentment or denunciation with probable evidence, and worthy of farther consideration. And thereupon, the partie presented by the same bill, is said to stand indicted of the crime, and so tyed to make answer unto it, either by confessing, or traversing the indictment. And if the crime touch the life of the person indicted, it is yet referred to another enquest, called the enquest of life and death: who if they finde him guiltie, then hee standeth convicted of the crime, and is by the Judge to be condemned to death. See *Ignoramus*, see *Indictment*.

Billets of gold, commeth of the French (*billot*, i. *massa atri.* anno 27. Ed. 3. stat. 2. ca. 14.

Byrry paper, anno 1. Jaco.ca. 19.

Blacke maile, is halfe English, halfe French. For in french (*maille*) signifieth a small piece of money, which we call a halfepeny. It signifieth, in the Counties of *Cumberland*, *Norikumerland*, *Westmerland*, and the Bishopricke of *Durefme*, a certain rate of money,

corne, cartell, or other confederation, paid unto some inhabiting upon or neare the borders, being men of name and power, allied with certaine, knowne to be great robbers and spoile-takers within the said Countys, to the end thereby to be by them freed, protected, and kept in safetie, from the danger of such as doe usually robbe and steale in those parts, an. 43. Eliz. ca. 13.

Blacke rodde, is the huissier belonging to the order of the Garter, so called of his blacke rodde that he carrieth in his hand. Hee is of the Kings chamber, and also huissier of the parliament.

Blanckes, commeth of the french (*blanc*. i. *candidus*, *albus.*) It signifieth a kind of coine that was coined in the parts of France by King *H.* the fifth, that were subject to *England*: the value whereof was eight pence, *Stowes annals*, pag. 586. These were forbidden to be current within this Realme. an. 2. H. 6. cap. 9. The reason why they were called blankes may be because at the time these were coined in *France*, there was also a piece of gold coined, which was called a (*Saxus*) of the value of twenty-two shillings, from which this silver was in name distinguished by the colour.

Bleedy hand. See *Backberend*.
Blomery, is one of the forges

belonging to an iron mill (which also seemeth otherwise to bee termed a *Finary*. The use whereof, if you will understand, you must know, that first there is a furnace, wherein the mine-stones are melted and cast into a raw iron, fashioned into long wedges three square, that be called sows. Then be there two forges like unto Smithes forges, but much bigger, the one whereof is called the blomary, or (as it seemeth) the finary, into the which being maintained with a charcole fire blowne with bellowes, made to goe by water, are cast the said sowes of raw iron; and melted againe, and by a workman called the finary man, are wound and wrought round, and afterward beaten by a hammer into little wedges about a yard long, which are called bloomes. Then is there another forge called the Hammer, into which these bloomes are cast, and by a work man (called the Hammer man) againe chafed and made soft in a charcole fire, blowne likewise with bellowes caused to goe by the water: and after carried by the said Hammer man, and put under the great hammer also driven by the wa-ter. And so the said bloomes are drawne, fashioned, and made into such barres of iron of divers sorts and formes, as wee see

commonly sold. Of these you may reade in the statute, anno 27. Elizab. ca. 19. See *Baye*.

Blondwrit(*blodwita*) is compounded of two Saxon words (*blour*. i. *sanguis*) and (*wit*) for the which we have the word (*wite*) still in the West parts of *England* signifying a charging of one with a fault, or an upbraiding. And *Speight* in his expositions upon *Chaucer* saith, that (to twit) is as much as to blame. (To twit) in some other places of this land signifieth as much as (to hitte in the teeth) or to upbraide. This bloudwit is a word used in charters of liberties anciently graunted, and signifieth an amercement for shedding of bloud. So that whosoever had it given him in his Charter, had the penaltie due for shedding of bloud graunted unto him. *Rastall* in his exposition of words. *Skene de verbo. signif.* writeth it (*bludreit*) and saith that (*veit*) in English is *injuria vel misericordis*: and that (*bludreit*) is an amercement or (*unlawe*) as the *Scottishmen* call it, for wrong or injury, as bloudshed is. For he that is *infest* with (*bludveit*) hath free libertie to take all amercements of Courts for effusion of bloud. *Fleta* saith, *quod significat quietantiam misericordia pro effusione sanguinis.* li. 1. ca. 47.

Buckland, See *Charterland*. See *Copie*

Copie-bould and Free-bould.

Bonis arrestandis, is a writ, for the which See *Arrestandis bonis*.

Bonis non amovendis, is a writ to the Shyrees of London, &c. to charge them, that one condemned by judgement in an action, and prosecuting a writ of error, be not suffered to remove his goods, untill the error be tried.
Register orig. fo. 131. b.

Borow (*burgus vel burgum*) may either come from the French (*burg*. i. *pagus*) or from the Saxon (*borhoe*. i. *vadium, pignus*.) It signifieth here in England a corporate Towne that is not a Citie. anno 2. Ed. 3. c. 3. namely, all such as send Burgeses to the Parliament: the number whereof you may see in M. Crampons jurist. fol. 24. It may probably bee thought, that it was anciently taken for those companies consisting of ten families, which were combined to be one another's pledge or borhoe: See *Bacon*, li. 3. tractat. 2. c. 10. See *Headborow*, and *Borowhead*, and M. *Lambard* in the duties of Constables, pag. 8. Lynned upon the provinciall (*ut singula de centib[us]*) speake to this effect: *Aliqui interpretantur burgum esse castrum, vel locum ubi sunt crebra castra, vel dicens burgus, ubi sunt per limites habitacula plura constituta.*) But then setting downe his owne opinion, he defineth it thus: *Burgus*

dicit potest villa quecumq; alia a civitate, in qua est universitas approbata. And that he proveth out of the 11. book of *Justini ms Codex*. tit. de fund. rei private. 65. &c. 6. *ejus t[em]p[or]i*, where *burgus* is termed *corpus*. Some derive it from the Greeke (*πύργος*. i. *turris*) see M. *Skene de verbo. sign. verbo. Borgbe*. The late author *M. Verstegan*, in his restitution of decayed intelliences, saith, that (*burg*) or (*bnrgh*) whereof we say yet (*Borrougb*) or (*Borrow*) metaphorically signifieth a Towne, having a wall, or some kind of cloſure about it also a Castle. All places that in old time had among our ancestors the name of Borrough, were places one way or other fenced or fortified.

Bordlands, signifie the demesnes, that Lords keepe in their hands, to the maintenance of their bord or table. *Bract. li. 4. tractat. 31. cap. 1. nro 2.* *in folio 101. b.*

Borowhead alias *Headborow*, (*capitatis plegius*) by M. *Lambard* opinio in his tractate of *Constables*, is made up of these two words, (*borhoe* i. *pledge*) and (*head*) and signifieth a head or chiefe pledge. And in explication of this, and other Saxon words of this nature, hee maketh an excellent rehearsal of some ancient customes of England, during the reigne of the Saxons, which you may reade. This borowhead (*in short*) was

was the head or chiefe man of the Decurie or Burhoe, that there he speakest of, chosen by the rest to speake, and to doe in the name of the rest, those things that concerned them. See *Borow-holders*.

Borow-holders, alias *Bursholders*, be *quasi borboe ealdri*, signifying the same officers that be callded borow-heads. (*Lamb.* in the duties of *Constables.*) *Braston* calleth them *(Borghis Aldere)* *li. 3. tractat. 2. ca. 10.*

Borow english, is a custumarie descent of lands or tenements, whereby in all places where this custome holdeth, lands and tenements descend to the yongest sonne: or if the owner have no issue, to his yongest brother: as in *Edmuntson. Kitchin.* fo. 102. And the reasoun of this custome, as (*Listeron* saith), is, for that the yongest is presumed in law, to be least able to shifft for himselfe.

Borow goods divisibl, I finde these words in the statute of *A-Elton. Burnell anno 11. Ed. i. statuto unico*, and dare not confidently set downe the true meaning of them. But as before the statute of 32. & 34. *H. 8.* no lands were divisible at the common law, but in ancient baronies: so perhaps, at the making of the foresaid statute of *Acton burnel*, it was doubtfull, whether goods were devisable but in ancient

borowes. For it seemeth by the writ *de rationabili parte bonorum*, that aunciently the goods of a man were partible betweene his wife and children.

Bote, signifieth compensation. *Lamb.* explication of Saxon words. Thence commeth (*manbote*, alias *mnbote*) that is compensation or amends for a man slaine, which is bound to another. For farther understanding whereof, it is to be seene in *K. Inas lawes*, set out by *M. Lambert. ca. 96.* what rate wasordeined for the expiation of this offence: See *Hedgebote, Plowbote, Hausebote*, and reade *M. Skene de verbo.* signif. *verbo. Bote.*

Botteler of the King (*pincerna regis*) anno 43. Ed. 3. ca. 3. is an officer that provideth the Kings wines: who (as *Fleta* li. 2. ca. 21. saith) may by vertue of his office out of every Shippe loaden with stale wines, *unum dolium eligere in prora navis ad opus regis*, & aliud in *ppipi*, & pro qua'libet pecia reddere tantum 20. solid. mercatori. *Si autem plura inde habere voluerit bene licet:* dum tamen precium fideli digne*rum iudicio pro rege apponatur.*

Bon-bearer, is an under-officer of the Forest (as *M. Crompton* in his *Jurisdict. fo. 201.* setteth down, sworne to the true performance of his office in these words: *I will true man be to the Master forester*

ster of this forest, and to his lieu-
tenant; and in the absence of
them, I shall truly oversee, and
true inquisition make, as well of
swornemen as unsworne in eve-
ry baylywick, both in the North
bayle, and South bayle of this
Forest, and of all manner of tres-
passes done, either to vert or ve-
nison, I shall truly endeavour
my selfe to attache, or cause them
to be attache, in the next court
Attachment, there to be pre-
sented, without any concealement
had to my knowledge: So helpe
me God, &c.

Bracton (otherwise called *Henry of Bracton*) was a famous law-
yer of this land, renowned for
his knowledge both in the com-
mon and civill lawes, as appear-
eth by his booke every where
extant. Hee lived in the dayes
of Henry the third. *Statut. prae. f.*
3. b. and as some say, Lord chiefe
Justice of England.

Bread of treate, and bread of
coker, anno 5 i. H. 3. *statut. 1.* of
bread and ale.

Bred, signifieth broad. This
word *Brosis* useth, *li. 3. tract. 2.*
c. 15. n. 7. proverbially thus: to
lange and to bred: the meaning
whereof you may there finde,
word for word it is, as wee now
speake, two long and two broad:
or two in length, or two in
breadth.

Brevibus, & rotulis liberandis, is

a writ or mandat to a Shyreeve
to deliver unto the new Shy-
reeve chosen in his roome, the
countie with the appertinances,
together with the rolls, briefes,
remembrances, and all other
things belonging to that office,
Register orig. fo. 295. a.

Bribours, commeth of the
French (*bribus. i. mendicus.*) It see-
meth to signify with us, one that
pilfreteth other mens goods, *anno*
28. Ed. 2. stat. 1. c. a. unic.

Briefe (*breve*) commeth from
the French (*bref. ou breif. i. brevis*)
and in our common law signifi-
eth a writ, whereby a man is
summoned to answer to any ac-
tion: or (more largely) any pre-
cept of the King in writing, issu-
ing out of any Court, whereby
hee commandeth any thing to
be done, for the furtherance of
justice or good order. The word
is used in the civill law, some-
time in the singular number, and
masculine gender, as *l. ult. Cod. de*
conveniendis fisci debitoribus. l. 10.
tit. 2. you have these words: *Inter*
chartulas confiscati brevis, quidam
adseveratur inventus, qui nominat co-
linebat debitorum. Where it is used
for a short note. Againe, I find a
title restored by *Getbored*, in the
first booke of the *Code. de quadri-*
mensbris brevibus. *Quadrumen-*
stris autem breves erant, qui de sin-
gulis indicivis pensionibus, quarto
quoq; mense solitis, conficiebantur.

Also Lampridius in *Alexandro* hath it singularly thus: *notarium, qui falsum cause brevem in consilio imperatoris retulisset, &c.* And in the *Authenticks*, Novel. 105. o. 2. you have this word (*breviatores*. i. *brevium proscriptores*.) *Breves autem, brevia, brevicula, sunt chartae size libelli breves*, as *Gothofred*, there noteth. Where he noteth likewise out of *Zonaras in Carthagin: Concilio*, that this is a greek word, thus: βρέβιον ή ἐμποιητικόν χειροποίητον. See *Skene de verbo. signif. verbo Breve*. Of these briefes see also *Bracton l. 5. tract. 5. ca. 17. n. 2.* *Breve quidem cum sit formatum ad similitudinem reguli juris, quia breviter & paucis verbis intentionem proferevit exponit & explanat, sicut regula juris rem que est breviter evarrat. Non tamen ita breve esse debet, quia rationem & vim intentionis continent, &c.*

Brigandine (*lorica*) is the French (*brigandine*) that is a coate of maile. This is used, anno 4. & 5. *Pb. & Mar. ca. 2.*

Brigote, significat quietantiam reparationis pontium. *Fleta l. 1. ca. 47.* It is compounded of (*brig*) a bridge and (*bote*) which is a yeelding of amends, or supplying a defect. See (*Bote*) and *Bruckbote*.

Britton, was a famous Lawyer, that lived in the dayes of K. Edward the first, at whose commandement, and by whose authoritie

he writ a learned book of the law of this realme. The tenure whereof runneth in the Kings name, as if it had beene penned by himselfe, answerably to the *Institutions*, which *Justinian* assumeth to himselfe, though composed by others. *Statuens. prero. f. 6. & 21. S. Edward Coke* saith, that this *Britton* writ his booke in the fiftie yeare of the said Kings raigne. *li. 4. fo. 126. a. & li. 6. fo. 67. a. M. Guin* in the Preface to his reading, mentioneth, that this *John Britton* was Bishop of *Hereford*.

Broke, commonly called *S. Robert Broke*, was a great Lawyer and Lord chiefe Justice of the common pleas in *Queene Maries* time. *Campions* Justice of peace, f. 22. b. hee made an abridgement of the whole law, a booke of high account.

Broker (*brocarius*) seemeth to come from the French (*braieur*, i. *tritor*) that is a grinder or breaker into small pieces. Because he that is of that trade, to deale in matters of money and marchandise betweene English men and Strangers, doth draw the bargaine to particulars, and the parties to conclusion, not forgetting to grinde out something to his owne profit. These men be called *broggers*, anno 10. *R. 2. ca. 1.* It may not improbable be said, that this word cometh from (*brocarder*)

carder. i. *cavallari*) because these kind of men, by their deceitfull speeches, and abusing their true trade, many times inveigle others. In *Scotland* they be called (*broccarii*) and in their owne idiom, blockers or brockers, that is, mediators or intercessors in any trāſaction, paction, or contract: as in buying or selling, or in contracting mariage. *Skene de verbo sign. verb. broccaris.*

He that will know what these brokers were wont, and ought to be, let him reade the statute *an. i. Jacobi. ca. 21.* These in the civill law are called (*proxeneti*) as also of some *licitatores & media-tores. tit. de proxeneticis, in Digestis.*) This kind of dealer is also of the Romanes called (*pararius*) *Seneca l. 2. de benef. ca. 22. Caius Rhodoginus, libro 6. ca. 32. & li. 3. cap. 15.*

Broderers (commeth of the French *brodeur*) and that commeth of (*bordure. i. fimbria, limbus*) the edge or hemme of a garment. And that because it is distinguiſhed from the rest, most commonly, by ſome conceited or costly worke; he that worketh it, is called (*brodeur*) in French, and broderer or embroderer with us.

Brodehalpeny, commeth of the three Saxon words (*bret, or bret*) *i. a boord:* and (*halve*) that is, for this or that cauſe (*cujus rei gratia*) as the Latinists ſpeake, and

(*penning*) it ſignifieth a tolle or custome for ſetting up of tables or boords in a Faire or Market. From the which, they that are freed by the Kings Charter, had this word mentioned in their letters patents. Insomuch, as at this day the freedome it ſelfe (for ſhortneſſe of ſpeech) is called by the name of *brodehalpenie.*

Broggers. See *Brokers.*

Bruckbote (*Pontagium*) is compounded of two German words (*bruck. i. pons,*) and (*bote. i. compenſatio.*) It ſignifieth with us, a tribute, contriбуtion, or ayde toward the mending, or reedifying of Bridges; whereof many are freed by the Kings Charter. And thereupon the word is used for the very libertie or exemption from this tribute. See *Pontage* and *Brigbote.*

Bull (*bulla*) ſeemeth to come from the Greek, (*βολλη*) i. *confiſſum*) as *Polydorus Virgilinus* faith, *de inventio rerum, lib. 8. cap. 2.* It ſignifieth the letters, by the Canoniſts called *Apostolicke*, ſtrengthened with a leaden ſeale, and containing in them the decrees or commandements of the Pope or Bishop of *Rome*. The word is uſed many times in our Statutes: as *anno 28. H. 8. cap. 16. & anno 1. & 2. Pb. & Ma. ca. 8.*

Bullion, commeth of the French (*billon*) that is, the place where gold is tried. It ſignifieth with

us, gold or silver in the masse or billet, anno 9. Ed. 3. stat. 2. cap. 2. and sometome the Kings exchange or place, whether such gold in the lumpe is brought to be tryed or exchanged, anno 27. Ed. 3. stat. 2. cap. 14. & anno 4. H. 4. cap. 10. See *Skene de verbo signif. verbo Bullion.*

Burghate, commeth of (*burg.* i. *castellum*) and (*bote.* i. *compensatio*) and signifieth a tribute or contribution toward the building or repairing of castles, or walls of defence, or toward the building of a borow or city. Frō this divers had exemption by the ancient Charters of the Saxon Kings. Whereupon it is taken ordinarily for the exemption or libertie it selfe. *Rastals expos. of words.* *Fleta* hath these words of it: *Significat quietantiam reparationis murorum civitatis vel burgi.* li. 1. c. 47.

Burgh English. See *Borow English.*

Burgage (*burgagium*) is a tenure proper to cities and townes, whereby men of cities or borowes, hold their lands or tene- ments of the King, or other Lord for a certaine yeately rent. *Old Tenures.* It is a kinde of socage. *Swinborw. parte 3. §. 3. nu. 6.*

Burglarie (*burglaria*) is compounded of two French words, (*bourg.* i. *pagus, villa*) and (*larcin,* i. *furtum*), or of (*bourg* & *la-*

ron) *Coke lib. 4. fol. 39. b.* It is according to the acceptance of our common law, thus defined: Burglarie is a felonious entring into another mans dwelling house, wherein some person is, or into a Church in the night time, to the end to commit some felonie therein: as to kill some man, or to steale somewhat thence, or to doe some other felonious act there, albeit he execute not the same. If the intent, or fact of this effendour, be to steale, this is like robbery, if to murther, it differeth not much from murther, and so of other felonies; *West. parte 2. Symbol. titulo. Indictment. Sect. 56.* Burglarie in the naturall signification of the word, is nothing, but the robbing of a house: but as it is (*vox artis*) our common-Lawyers restraine it to robbing a house by night, or breaking in with an intent to rob, or to doe some other felonie. The like offence committed by day, they call house-robbing, by a peculiar name. How many wayes burglarie may bee committed, see *Cromptons Justice of peace, fol. 28. b. & fol. 29, 30.*

Butlerage of wines, signifieth that imposition of sale wine brought into the land, which the Kings Butler, by vertue of his office, may take of every ship, anno 1. H. 8. cap. 5. For the

the which see more in Botyler.

CAblis (*cabilis*) among the writers of the Forest lawes, signifieth brush wood, *Manwood* parte pag. 84. *Cromptons Jurisd.* fol. 165.

Calamus, is a cane, reed, or quill, the divers kinds whereof, you have set downe in *Gerards Herball*, lib. 1. cap. 24. This is comprised among merchandize and drugs to bee garbled, in the statute anno 1. *Jacobi*, cap. 19.

Calendrin of *Worsseds*. anno 5. H. 8. cap. 4. & anno 35. ejusdem. cap. 5.

Centred, is as much in *Wales*, as an hundred in *England*. For *Centre* in the British tongue signifieth *centum*. This word is used anno 28. H. 8. cap. 3.

Cape, is a writ judiciall touching plee of land or tenements, so termed, (as most writs be) of that word in it selfe, which carrieth the especiallest intention or end thereof. And this writ is divided in *Cape magnum*, & *Cape parvum*: both which (as is before said in Attachment) take hold of things immoveable, and seeme to differ betweene themselves in these points. First, because (*Cape magnum*) of the (*grand Cape*) lyeth before ap-

pearance, and (*Cape parvum*) afterward. Secondly, the (*Cape magnum*) summoneth the tenant to answer to the default, and over to the demandant: (*Cape parvum*) summoneth the tenant to answer to the default onely: and therefore is called (*Cape parvum*) or in French english (*petit Cape*.) *Old nat. br.* fol. 161, 162. Yet *Ingham* saith, that it is called (*petit Cape*) not because it is of small force, but that it consisteth of few words. (*Cape magnum*) in the *old. nat. br.* is thus defined. This writ is a judicall, and lyeth where a man hath brought a (*Principe quod reddit*) of a thing that toucheth plee of land, and the tenant make default at the day to him given in the writ originall: then this writ shall goe for the King, to take the land into the Kings hands: and if hee come not at the day given him by the (*grand Cape*) he hath lost his land, &c. A president and forme of this writ you may see in the Register judiciall, fol. 1. b. It seemeth after a sort to containe in it the effect (*missionis in possessionem ex prima & secundo decreto*) among the Civilians. For as the first decree seiseth the thing, and the second giveth it from him, that the second time defaulteth in his appearance: so this (*Cape*) both seiseth the land, and also assigneth to the partie a

farther day of appearance, at which if hee come not in, the land is forfeited. Yet is there difference betweene these two courses of the civill and common law: first, for that (*missio in possessionem*) toucheth both mooveable and immooveable goods, whereas the (*Cape*) is extended onely to immoveable: secondly, that the partie being satisfied of his demaund, the remanet is restored to him that defaulted: but by the (*Cape*) all is seised without restitution: thirdly, (*missio in possessi:*) is to the use of the party agent, the (*Cape*) is to the use of the King. Of this writ, and the explication of the true force and effect thereof, reade *Braclton lib. 5. tract. 3. cap. 1. num. 4, 5, & 6.* See *Cape ad valentiam*.

Cape parvam in the *Old. nat. br. fol. 162.* is thus defined: This writ lyeth, in case where the tenent is sommoned in ples of land, and commeth at the summons, and his appearance is of record, and after hee maketh default at the day that is given to him: then shall goe this writ for the King, &c. Of this like-wise you have the forme in the Register judiciall, *fol. 2. a.* Why it is called *Cape parvum*, see in *Cape magnum*. Of both these writs reade *Fleta lib. 6. cap. 44. §. Magnum & seqq.*

Cape ad valentiam, is a species of *Cape magnum*, so called of the end whereunto it tendeth. In the *Old nat. br. fo. 161, 162.* it is thus defined or described: This writ lyeth, where any impleaded of certaine lands, and I vouch to warrant another, against whom the summons *ad warrantizandum*, hath been awardeed, and the Shyreeve commeth not at the day given: then if the demandant recover against mee, I shall have this writ against the youchee, and shall recover so much in value of the land of the vowchee, if hee have so much: and if hee have not so much, then I shall have execution of such lands and tenements, as descend unto him in fee-simple: or if he purchase afterward, I shall have against him a resummons: and if hee can nothing say, I shall recover the value. And note yee, that this writ lyeth before apparence. Thus farre goeth the booke. Of these, and the divers uses of them, see the Table of the Register judiciall, *verbo. Cape.*

Capias, is a writ of two sorts, one before judgement called (*Capias ad respondendum*) in an action personall, if the Shyreeve upon the first writ of distresse returne (*nihil habet in baliva nostra:*) and the other is a writ of execution after judgement, being also of

of divers kinds. (*viz.* *Capias ad satisfaciendum*, *Capias pro fine*, *Capias utlagatum*, *Capias utlagatum*, & *inquiras de bonis & cattallis.*)

Capias ad satisfaciendum, is a writ of execution after judgement, lying where a man recovereth in an action personall, as debt, or damages, or detinue in the Kings court: and he against whom the debt is recovered, and hath no lands nor tenements, nor sufficient goods, whereof the debt may be levied. For in this case, hee that recovereth, shall have this writ to the Sheriffe commanding him that hee take the body of him, against whom the debt is recovered: and hee shall be put in prison, untill satisfaction be made unto him that recovered.

Capias pro fine, is where one being by judgement fined unto the King, upon some offence committed against a statute, doth not discharge it according to the judgement. For by this is his body taken, and committed to prison, untill hee content the King for his fine, *Coke lib. 3. fo. 12. a.*

Capias utlagatum, is a word of execution, or after judgement, which lyeth against him that is outlawed upon any suit: by the which the Sheriffe upon the receite thereof, apprehendeth the party outlawed, for not appea-

ring upon the (*exegend*) and kee-peth him in safe custodie untill the day of returne assigned in the writ: and then presenteth him unto the court, there farther to be ordered for his contempt.

Capias utlagatum, & *inquiras de bonis & cattallis*, is a writ all one with the former, but that it giveth a farther power to the Shyreeve, over and beside the apprehension of the body, to inquire of his goods, and cattels. The forme of all these writs see in the *old nat. br. fo. 154.* and see the *Termes of law, verbo Proces.* Lastly, you may find great varietie of this kind, in the table of the Register judiciall, *verbo Capias.*

Capias in Witbernamium de ave-riis, is a writ lying for cattell in *Witbernam*. *Register orig. f. 82. & 83.* see *Witbernam*.

Capias in Witbernamium de be-mine, is a writ that lyeth for a servant in *Witbernam*. *Register orig. f. 79. & 80.* see *Witbernam*.

Capias conductus ad proficien-dum, is a writ that lieth for the taking up of such, as having received prest money to serve the King, slinke away, and come not in at their time assigned, *Register orig. fo. 191.*

Captaine, alias capitaine (capi-taneus) commeth of the French (*capitaine*) and signifieth with us, him that leadeth, or hath charge of

of a companie of Souldiers: and is either generall, as he that hath the governance of the whole host: or speciall, as he that leadeth one onely band. The word (*capitanei*) in other nations signifieth more generally those, that are in latine called (*principes*) or (*proceres*) because, as *Hottoman* saith in *verbis feudalibus*: *tanguam caput reliquo corpori, sic hii reliquis vivisbus presunt*. He divideth them into two sorts: and to use his words, *alii sunt capitanei regni: quo verbo Duces, Comites, Marchiones intelliguntur.* l. 1. f. 1. tit. 1. §. 1. & 2. tit. 7. *Alii impropter, qui urbium praefecti sunt, quibus plebs ab aliquo superiorum gubernanda committitur: qui & vallatores rigit, & maiores appellantur.* l. f. 1. tit. 1. §. 1. & 2. tit. 7. & 2. tit. 17. So we have captaines of Castles here in *England*, and other places, as of the Isles of *Gearsay* and *Gearnsey*, of the Isle of *Wight*, &c.

Capite, is a tenure, which holdeth immediately of the King, as of his crowne, be it by knights service or socage: *Broke tit. tenures.* 46.94. *Dyer*, fo. 123. n. 38. & fo. 363. n. 18. and not as of any honour, castle, or manor: and therefore it is otherwise called a tenure, that holdeth merely of the King, because as the crowne is a corporation, and seigneurie in grosse (as the common lawyers telme it) so the King that

possesseth the crown, is in account of law, perpetually King, and never in his minoritie, nor never dieth: no more then (*populus*) doth, whose authoritie he beareth. See *Fitzb. n. 1. br. f. 5. F.* Note by the way, that a man may hold of the King, and not (*in Capite*) that is, not immediately of the crowne in grosse, but by meanes of some Honour, castle, or manor belonging to the Crowne, whereof I hold my land. Whereof *Kirckbin* saith well, that a man may hold of the King by Knights service, and yet not in *capite*, because he holdeth happily of some honour by Knights service, which is in the Kings hands (as by descent from his ancestors) and not immediately of the King, as of his crowne, fo. 129. with whom agreeeth *Fitzb. n. 1. br. f. 5. K.* whose words are to this effect: So that it plainly appeareth, that lands which be held of the King, as of an honour, castle, or manor, are not held in *capite* of the King: because that a writ of right, in that case, shall be directed to the bayllife of the honour, castle, or manor, &c. but when the lands be held of the King, as of his crowne, then they be not held of honour, castle, or manor, but merely of the King, as King, and of the Kings Crowne, as of a seigneurie of it selfe in grosse, and the chiefe above all other seigneuries,

ries, &c. And this tenure in *capite* is otherwise called tenure holding of the person of the King. *Dyer* fo. 44. nū. 37. Another of the new termes. ver. *Tenure in capite.* Broke *titulo.* *Tenures* nū. 65. 99. And yet *M. Kitchin* fo. 208. saith, that a man may hold of the person of the King, and not in *capite*. His example is this: If the King purchase a manor that *I. S.* holdeth, the tenent shall hold *as he held before*, and shall not render livery or *primitur seism*, nor hold in *capite*: And if the King grant that manor to *W. N.* in fee, excepting the services of *I. S.* then *L. S.* holdeth of the King, as of the person of the King, and yet holdeth not in *capite*, but as he held before. So that by this Booke, tenure holding of the person of the King, and tenure in *capite*, are two divers tenures. To take away this difficultie, I thinke *M. Kitchin* is in that place to be taken, as if hee said, not in *capite* by Knights service, but by socage, following the usuall speech: because most commonly where wee talke of tenure in *capite*, wee meane tenure by Knights service.

Carno, *Crompton jurisdict.* fol. 191. is an immunitie.

Carke, seemeth to be a quantitie of Wooll, whereof thirtie make a Sarpler, anno 27. H. 6. ea. 2. See *Sarpler*.

Carreck, alias *Carrick*, seemeth to be a Ship of burthen, so called of this Italian (*carrico*) or (*carco*) a burthen or charge, or of the Spanish (*cargo*) you have this word, anno 2. R. 2. ca. 4. & anno 1. *Jaco.* ca. 33.

Carroway seeds, alias *Carraway seeds*, (*semen cari vel carei*) is a Seed springing of the herbe so called, of whose operation you may reade in *Gerards Herbal*, li. 2. esp. 396. It is reckoned among the Merchandise, that ought to be garbled, anno 1. *Jaco.* ca. 19.

Carue of land (*carucata terre*) commeth of the French (*charue*. *carustum*) and with us is a certaine quantitie of land, by the which the Subjects have sometime been taxed: whereupon the tribute so levied, is called (*Carvage*, *Carvagium*) *Bracton* li. 2. ca. 16. nū. 8. It is all one with that, which the same Author, *ib.* 2. cap. 17. calleth (*carucatam terra*.) For *Litleton* ca. *Tenure in socage*, sayth, that (*bec soca soca idem est quod caruca*) scilicet one booke, or one plow land. Yet one place I finde in *Stoeres annals*, that maketh mee doubt, pag. 271. where he hath these words: The same time King *Henry* tooke *carvage*, that is to say, two markes of silver of every Knights fee, toward the mariage of his sister *Isabell* to the Emperor: where *carvage* cannot be taken for a Plow land, except

there were some other farther division, whereby to raise of every plow land so much : and so consequently of every Knights fee: that is, of every 680. acres, two markes of silver. *Rastall* in his *Exposition of words*, saith, that carvage is to be quite, if the Lord the King shall tax all the land by carnes: that is, a priviledge, whereby a man is exempted from carvage. *Skene de verb.* signif. ver. *Carcata terra*, deriveth it from the French (*charon*. i. a plough) and saith, that it containes as great a portion of land, as may be tilled and laboured in a yeare and day with one plough: which also is called (*bilda*) or (*bida terre*) a word used in the old Britaine lawes. Master *Lambert* among his precedents, in the end of his *Ethnarcha*, translateth (*carraganus terre*) a plough land.

Carvage (*carnagium*) see *Carue*.

Cassis Fibula, is a tree that beareth certaine blacke, round, and long cods, wherein is contained a pulpe, soft and pleasant sweet, serving for many uses in Physick. This tree with her vertues you may find described in *Gerards Herball*, lib. 3. cap. 77. The fruit is mentioned in the statute, anno 1. *Jacob.* cap. 19. among drugges and splices, that bee to be garbled.

Coffia Lignea, is a sweet wood not unlike to Cynamon, and sometime used in stead of Cynamon. Whereof you may read in *Gerards Herball*, lib. 1. cap. 141. This is called *Cussia lignum*, in the Statute anno 1. *Jacob.* cap. 19. and is comprised among merchandize that are to be garbled.

Castellam (*castellanus*) is a keeper or a Captaine, sometime called a Constable of a Castle, *Bretton* lib. 5. tract. 2. cap. 16. & lib. 2. cap. 32. num. 2. In like manner is it used, anno 3. *Ed.* 1. cap. 7. In the booke (*de feudis*) you shall finde (*guostaldus*) to be almost of the same signification, but something more large: because it is also extended to those that have the custody of the Kings mansion houses, called of the *Lumbards* (*curtes*) in England (Courts) though they be not places of defence or strength. *M. Mawwood*, part. 1. of his *Forest lawes*, pag. 113. saith, that there is an Officer of the Forest called *Castellanus*.

Castelward (*castelgardum*, vel *wardum castri*) is an imposition laid upon such of the Kings subjects, as dwell within a certaine compasse of any Castle, toward the maintenance of such, as doe watch and ward the Castle. *Magna charta*, cap. 20. & anno 32. H. 8. cap. 48. It is used sometime, for the very circuit it selfe, which

is inhabited by such as are subject to this service, as in *Stones annals*, pag. 632.

Causa consimili, is a writ of entrie, granted where the tenant by courtesie, or tenant for terme of life, or for the life of another, doth alien in fee, or in taile, or for terme of anothers life. And it hath the name of this, for that the Clerkes of the Chauncerie did, by their common consent, frame it to the likenesse of the writ called (*In causa proviso*) according to their authoritie given them by the Statute, *Westm.* 2. cap. 24. which, as often as there chanceth any new case in Chancerie, something like to a former case, and yet not especially fitted by any writ, licenceth them to lay their heads together, and to frame a new forme answerable to the new case, and as like some former case as they may. And this writ is graunted to him in the reversion; against the partie to whom the said tenant so alienateth to his prejudice, and in the life time of the said tenant. The forme and effect whereof, reade more at large in *Fitzb. nat. br.* fol. 206.

Causa proviso, is a writ of entry, given by the Statute of *Glester*, cap. 7. in case where a tenant in dower alieneth in fee or for terme of life, or in taile,

and lyeth for him in reversion against the alienee. Whereof reade *Fitzb. nat. br.* more at large, fol. 205.

Catalls (*catalls*) alias *chatels*, commeth of the Normans. For in the eighty-seventh Chapter of the grand customary you shall find, that all moveable goods with them, are called chatels: the contrary whereof is (*fief*) *ibid.* which wee doe call fee. But as it is used in our common law, it comprehendeth all goods moveable and immoveable, but such as are in the nature of freehold, or parcell thereof, as may be gathered out of *Statu[m]s. pro- rro. cap. 16.* and *an. Eliz. 1. cap. 2.* Howbeit, *Kitchin* in the chapter *catalla. fo. 32.* saith, that ready money is not accounted any goods or chatels, nor hawkes, nor hounds. The reason why hawkes and hounds be not, he giveth, because they be (*sese nature*) why money is not, though hee set not downe the cause: yet it may be gathered to be, for that money of it selfe, is not of worth, but as by consent of men, for their easier traffike, or permutation of things necessary for common life, it is reckoned a thing rather consisting in imagination, then in deed. *Chatels* be either personall or reall. Personall may be so called in two respects: one, because they be-

long immediately to the person of a man, as a bow, horse, &c. the other, for that being any way with-held injuriously from us, wee have no meanes to recover them, but by personall action. *Chatells* reall be such, as either appertaine not immediatly to the person, but to some other thing, by way of dependencie : as a boxe with charters of land, the body of a ward, apples upon a tree, or a tree it selfe growing on the ground. *Cromptons Justice of peace* fol. 33. B. or else such as are necessary, issuing out of some immoveable thing to a person : as a lease or rent for yeare of yeares. Also to hold at will, is a chatell reall. *New tearnies, verbo Chatell.* The Civilians comprehend these things, as also lands of what kind or hold soever, under bona ; bona autem dividuntur in mobilis & immobilis : mobilis verò in ea que se movent vel ab aliis moventur. *v. legem. 49. & l. 208. π. de verb. significia. & interpres ibidem.* Bracton also c. 3. l. 3. m. 3. & 4. seemeth to be of the same judgement.

Catalis capti nominis distretionis, is a writ that lyeth within a Borow, or within a house, for rent going out of the same, and warranteth a man to take the dores, windowes, or gates, by way of distresse, for the rent. *Old nat. br. fol. 66.*

Cassilia reddendis, is a writ, which lyeth where goods being delivered to any man to keepe untill a certayne day, and be not upon demand delivered at the day. And it may be otherwise called a writ of detinew. See more of it in the *Register orig. fol. 139.* and in the *Old nat. br. fol. 63.* This is answerable to *actio depositi*, in the civilli law.

Catchpole, though it now be used as a word of contempt, yet in ancient times, it seemeth to have bee used without reproach, for such as we now call Sergeants of the Mace, or any other that use to arrest men upon any cause, anno 25. Ed. 3. stat. 4. c. 2.

Cathedral. See Church.

Cessu matrimonii prelaci, is a writ which lyeth in case where a woman giveth lands to a man in fee simple, to the intent he shall marry her, and refuseth so to doe in reasonable time, being required thereunto by the woman. The forme, and farther use hereof, learne in the *Register orig. fol. 233.* and in *Fitzb. nat. br. fol. 205.*

Causam nobis significes, is a writ which lyeth to a Maior of a Towne or Citie, &c. that formerly by the Kings writ being commanded to give scisin unto the Kings grantee of any land or tenements, doth delay so to doe,

doe, willing him to shew cause, why hee so delayeth the performance of his charge. Coke l. 4. casu communalty des Saddlers. fo. 55. b.

Coustone admittenda, is a writ that lyeth against the Bishop, holding an excommunicate person in prison for his contempt, notwithstanding that he offereth sufficient caution or assurance to obey the commandements & orders of holy church from thenceforth: The forme and farther effect whereof, take out of the Register, orig. pa. 66. and Fitzb. nat. br. fo. 63.

Century (*centuria*). See *Hundred*.
Cepicorpas, is a returne made by the Sheriff, that upō an (exigend) bee hath taken the bodie of the partie, Fitzb. nat. br. fo. 26.

Certiorari, is a writ issuing out of the Chancerie, to an inferior Court, to call up the records of a cause therein depending, that conscientable Justice therein may be ministred, upon complaint made by bill, that the partie which seeketh the said writ, hath received hard dealing in the said court. *Termes of the Law*. See the divers formes and uses of this, in *Fitzb. nat. br. fol. 242*. as also the Register, both originall and judiciall in the tables, *verbis*. *Certiorari*. *Crompton* in his *Justice of peace*. f. 117 saith, that this writ is either returnable in the Kings Bench, and then hath these

words (*nobis mittatis*:) or in the Chauncerie, and then hath (*in cancellaria nostra*) or in the common bench, and then hath (*Iusticiarist nostris de banco*.) The word (*certificare*) is used divers times in the digest of the civil law: but our later *Crucches* thinke it so barbarous, that they suspect it rather to be foisted in by *Tribonism*, then to be originally used by those men, of whose workes the said digest is compiled. *Pratensis in suo lexico*.

Certificat (*certificatorium*) is used for a writing made in any Court, to give notice to another Court of any thing done therein. As for example, a certificat of the cause of attaint, is a transcript made briefly and in few words, by the Clerke of the Crowne, Clerke of the Peace, or Clerke of Assise, to the court of the King's Bench, containing the tenure and effect of every enditment, outlawrie, or conviction, and Clerke attainted, made or pronounced in any other Court. *az. 34. H. 8. c. 14*. Of this see more in *Certificat & evesque*. *Broke* fol. 119.

Certification of assise of novel disseisin, &c. (*Certificatio assise nove disseisina, &c.*) is a writ granted for the re-examining or review of a matter passed by assise before any Justices, and is called (*certificatione nove disseisina*) *Old nat. br. fo. 181*. Of this see also the

Register original, fo. 200. and the new book of entries, verb. *Certificat of assise.* This word hath use, where a man appearing by his Bailiffe to an assise brought by another, hath lost the day : and having something more to plead for himselfe, as a deed of release, &c. which the Bailiffe did not, or might not plead for him, desirereth a farther examination of the cause, either before the same Justices, or others : and obtaineth Letters patents unto them to that effect. (The forme of these Letters patents, you may see in *Fitzb. nat. br. fo. 181.*) and that done, bringeth a writ to the Sheriffe, to call both the partie for whom the assise passed, and the Jurie that was empaneled upon the same, before the said Justices at a certaine day and place. And it is called a certificate, because in it there is mention made to the Sheriffe, that upon the parties complaint of the defective examination, or doubts yet remaining upon the assise passed, the King hath directed his Letters patents to the Justices, for the better certifying of themselves, whether all points of the said assise were duly examined, yea or not. See farther *Oldnat. br.* and *Fitzb. ubi supra.* Of this also you may reade *Bracon li. 4. cap. 19. num. 4. in fine.* & 5, 6. where he discusseth

the reason of this point very learnedly ; and lastly, *Horn in his Miroir of Justices, li. 3. ca. finalis, q. en eyde des memorie, &c.*

Certificando de recognitione Stapule, is a writ directed to the Major of the Staple, &c. commanding him to certifie the Chauncelor of a statute of the staple, taken before him betweene such and such, in case where the partie himselfe detaineth it, and refuseth to bring it in, *Regist. orig. fo. 152. b.* In like manner may be said of (*certificando de statuto mercatorio*) *codem. fo. 148.* and (*de certificando in cancellarium de inquisitione, de idem-pitatem nominis*) *fo. 195.* and (*certificando quando recognitio,*) &c. and *certificando quid actum est de brevi super statutum mercatorium.*) *fo. 151.* and *certificando se loquela Warantie.* *fol. 13.*

Cessor, is hee that ceaseth or neglecteth so long to performe a dutie belonging unto him, as that by his cesse or cessing he incurreth the danger of Law, and hath, or may have the writ (*cessavit*) brought against him. *Oldnat. br. fo. 136.* And note, that where it is said in divers places (the tenent cesseth) without any more words, such phrase is so to be understood, as if it were said : the tenent cesseth to doe that which hee ought, or is bound to doe by his land or te-nement.

Cessavit, is a writ, that lyeth in divers cases, as appeareth by *Fitz. val. br. fo. 208.* upon this generall ground, that he against whom it is brought, hath for two yeares forelowne to performe such service, or to pay such rent, as he is tied unto by his tenure, and hath not upon his land or his tenement, sufficient goods or catells to bee distreined. Consult more at large with *Fitz.* upon this *ubi supra*, with *Fleta. i. 5. ca. 34. h. viii* sunt, and with the *Termes of lawe*. See *Cessavit de cantaria. Register orig. fo. 238. Cessavit de feodi firma, eodem fo. 237. Cessavit per biennium. eodem folio etiam eodem.* See the new booke of Entries, verbo *Cessavit*.

Cestui qui vie, is in true French (*cestui à vie de qui*) i. hee for whose life any land or tenement is graunted. *Perkins graunts. 97.*

Cestui qui use (*ille cuius usui vel ad cuius usum*) is broken french, and thus may be bettered: (*Cestui al use de qui.*) It is an ordinary speech among our common lawyers, signifying him, to whose use any other man is lfeoffed in any lands or tenements. See the new booke of entries. verbo *uses.* and in *Replevin, fo. 508. colum. 3. & verbo Traspas, fo. 606. & fo. 123. a. b. colum. 3. nu. 7.*

Chase waxe, is an officer in Chauncery, that fitteth the wax for the sealing of the wris,

and such other instruments as are there made to bee sent out. This officer is borrowed from the French. For there: (*calefactores cere sunt, qui regis literis in Cancellaria ceram impriment. Corrasius.*)

Chase (*chacea*) commeth of the French (*chasser, i. sectari bellum, apres, cervos.*) It signifieth two things in the common law. First, as much as (*actus*) in the civil law, that is a driving of cattell to or from any place: as to chase a distresse to a fortlet: *Old nat. br. fo. 45.* Secondly, it is used for a receite for deere and wilde beasts, of a middle nature betweene a Forest, and a Parke: being commonly lesse then a Forest, and not endued with so many liberties, as the Courts of *attachment, Swaine mote, and Justice seise*: and yet of a larger compas, and stored with greater diversitie both of keepers and wilde beasts or game, then a parke. And *Crompton* in his booke of *Jurisdictions, fol. 148.* saith, that a forest cannot bee in the hands of a subject, but it forthwith losseth the name, and becommeth a chase, and yet *fo. 197.* he sayth, that a subject may bee lord and owner of a forest, which though it seeme a contrarietie, yet bee both his sayings, in some sort, true. For the King may give or alienate a forest to a subject yet *fo. 198.*

as when it is once in the subject, it leeseth the true propertie of a Forest: because that the Courts, called the Justice seat, the Swainmote, and Attachment, forthwith doe vanish: none being able to make a Lord chiefe Justice in Eyre of the Forest, but the King: as M. *Manwod* well sheweth, *parte 2.* of his Forest Lawes, *cap. 3.* & *4.* And yet it may be granted in so large a manner, that there may be Attachement and Swainemote, and a court equivalent to a Justice seat, as appeareth by him in the same chapter, *num. 3.* So that a Chast differeth from a Forest in this, because it may bee in the hands of a subject, which a Forest in his proper & true nature cannot: and from a Parke, in that that it is not inclosed, and hath not onely a larger compasse, and more store of game, but of Keepers also and overseers. See *Forest.*

Challenge (*calumnia*) commeth of the French *challenger*, i. *sibi asservare*) and is used in the common lawe for an exception taken either against persons or things: persons, as in affise to the Jurors, or any one or more of them: or in a case of felonie by the prisoner at the barre. *Smith. de rep. Anglor.* lib. 2. *cap. 12.* *Britton. ca. 52.* *Bracton. lib. 2. tract. 2. cap. 22.* Against things, as a declaration, *Old nat. br. fol. 76.* *Challenge*

made to the Jurors, is either made to the array, or to the polles. *Challenge* to the array is, when the whole number is excepted against, as partially empaneled: *challenge* to or by the polle, when some one, or more are excepted against, as not indifferent. *Terms of the Law.* *Challenge* to the Jurours, is also divided into *Challenge principall*, and *Challenge per cause*. i. upon cause or reason. *Challenge principall* (otherwise by *Swynf. pl. cor. fol. 157.* & *158.* called (*peremptorie*) is that, which the law alloweth without cause alledged or farther examination. *Lamberd. Eirmar. lib. 4. cap. 14.* as a prisoner at the barre, arraigned upon felonie, may peremptorily challenge to the number of 20, one after another, of the Jurie empaneled upon him, alledging no cause, but his owne dislike: and they shall bee still put off, and new taken in their places. But in case of high treason no *Challenge peremptorie* is allowed, *an. 33. H. 8. cap. 23.* *Foresone* saith, that a prisoner in this case may challenge, *35. men c. 27.* but that law was abridged by *anno 15. H. 8. cap. 3.* I cannot here omit to note some difference, that (in mine opinion) I observe betweene *Challenge principall*, and *Challenge peremptorie*, finding *peremptorie* to

to be used only in matters criminall, and barely without cause alledged more then the prisoners own phantasie, *Sawinf. pl. cor. fol. 124.* but principall in ci-vill actions for the most part, and with naming of some such cause of exception, as being found true, the law alloweth without farder scanning. For example: if either partie say, that one of the Jurors is the sonne, brother, cousin, or tenant to the other, or espoused his daughter, this is exception good and strong enough (if it bee true) without farder examination of the parties credit. And how farre this challenge upon kindred reacheth, you have a notable example, in *Plowden, casu Vernon*, against *Manners*, fol. 425. Also in the plee of the death of a man, and in every action reall, as also every action personall, where the debt or dammages amount to 40. marks, it is a good challenge to any man, that he cannot dispend 40. shillings by the yeare of Free-hold, anno, 11. H. 7. cap. 21. and Termes of the law,, *verbo Challenge*. The ground of this challenge you may see farder in *Fleta. lib. 4. cap. 8.* Challenge upon reason or cause is, when the partie doth alledge some such exception against one or more of the Jurors, as is not forthwith sufficient upon acknowledgement

of the truth thereof, but rather arbitrable and considerable by the rest of the Jurors: as for example: if the sonne of the Juror have married or espoused the daughter of the adverse partie. Termes of the law, *vbi supra.* This chalenge *per causam*, seemeth to be tearmed by *Ritchin, challenge for favour*, fol. 92. or rather Challenge for favour is said there to be one species of chalenge *per causam*: where you may read what challenges be commonly accounted principall, and what not. See. the new booke of Enteries, *verbo, Challenge*, and the *old. nat. br. fol. 158. & 159.* That this word (*challenge*) is long fithence latined by the word (*calumnia*) appeareth by *Braeton. lib. 3. tract. 2. cap. 18. & li. 4. tract. 3. cap. 6. & lib. 5. cap. 6.* But I doubt *Priscian* will never forgive him that first strooke this blow at him. Of *challenge* you may farder reade *Fleta. lib. 1. cap. 32. §. Ad quem diem &c. seqq.*

Chamberaskins, are Irish beggers, *an. 1. H. 5. cap. 8.*

Chamberer, is used for a Chamber-maid, *anno 33. H. 8. cap. 21.*

Chamberlaine (*camerarius vel camberlingus*) commeth of the French (*chambellan*) i. *cubicularium, vel prefetum cubiculi.*) It is diversly used in our Chronicles, Lawes, and Statutes: as Lord

great Chamberlaine of England, Lord Chamberlaine of the Kings house, the Kings Chamberlaine, anno 13. Ed. 1. cap. 41. anno 17. R. 2. cap. 6. to whose office it especially appertaineth to looke to the Kings chambers and wardrobe, and to governe the under ministers belonging unto the same. *Fleta lib. 2. cap. 6. & 7.* Chamberlaine of any of the Kings courts, anno 7. Ed. 6. cap. 1. Chamberlaine of the Exchequer, anno 51. H. 3. stat. 5. & anno 10. Ed. 3. cap. 11. & anno 14. ejusdem. cap. 14 & anno 26. H. 8. cap. 2. Chamberlaine of North Wales, *Stow, pag. 641.* Chamberlaine of Chester. *Cromptons jurisd. fol. 7.* This Officer is commonly the receiver of all rents and revenues belonging to that person or citie, whereunto he is Chamberlaine. v. *Fletam lib. 2. cap. 70. §. Si autem.* The Latine word seemeth to expresse the function of this officer. For (*camerarius dicitur à camera. i. testudine sive fornice: quia custodit pecunias que in camera præcipue reservantur. Onypbrius de interpret. vocum ecclesiasticarum.*) It seemeth to be borrowed from the Feudists, who define the word (*camera*) thus: *Camera est locus in quem thesaurus recolligitur, vel conclave in quo pecunia reservatur. Bisius de feudis. part. 4. m. 7. and Peregrinus, de jure fisci. lib. 6. tit. 3.* saith, that

*camerarius vel camberlingus (quem quæstorem antiqui appellavit) in rebus fisci primum locum tenet, quia thesaurarius & custos est publica pecunia. Sane officium hoc primipilatus suis nonnulli sentent. There be two officers of this name in the Kings Exchequer, who were wont to keep a controlement of the pels of receipt and exitus, and kept certaine keyes of the treasure cofers, which is not now in use. They keep the keyes of the Treasurie, where the leagues of the Kings predecessors, and divers ancient bookes doe remaine. There is mention of this officer, in the Statute, an. 34. & 35. H. 8. c. 16. There be also Under-chamberlains of the Exchequer, which see in *Under-chamberlaine.**

Champartie (cambipartita) alias *champertie*, seemeth to come from the French (*champert. i. vertigal*) and signifieth, in our common law, a maintenance of any man in his suit depending, upon condition to have part of the thing (bee it lands or goods) when it is recovered. *Fitz. nat. br. fol. 171.* and *champertours* be they, that move plees or suits, or cause to be moved, either by their owne procurement, or by other; and pursue at their proper costs, for to have part of the land in variance; or part of the gaines. anno 33. Ed. 1. stat. 2. in fine.

fine. Whereunto adde the third statute made the same yeare. This seemeth to have beene an ancient fault in our Realme. For notwithstanding these former statutes, and a forme of writ framed unto them, yet anno 4. Ed. 3. cap. 11. it was againe enacted, that whereas the former statute provided redresse for this in the Kings Bench onely (which in thole dayes followed the Court) from thenceforth it should be lawfull for Iustices of the Common plees likewise, and Iustices of Assises in their circuits, to inquire, heare, and determine this and such like cases, as well at the suit of the King, as of the party. How farre this writ extendeth, and the divers forms thereof, applied to severall cases, See *Fitz. nat. br. fo. 171.* and the *Register orig. fol. 183.* and the new booke of Enteries, *verbo. Champerie.* Every champtie employeth maintenance, *Cromptons juris. fo. 39.* See also his *Iustice of Peace; fol. 155. b. &c.* These with the Romans were called *redemptores litium, qui sc. quotidiana sicut mercantur, aut qui partem litis paciscuntur l. si remunerandi. §. Maurus. n. Mandati, l. si contra. & l. per diversas. Co. edem. 13.*

Champion (campio) is thus defined by *Hottoman*, in *verbis fidelibus.* *Campio est certator: pro aliis datus in duello: a campo dictus, qui*

circus erat decertantibus defitus. In our common law, it is taken no lesse for him that trieth the combat in his owne case, then for him that fighteth in the place or quarrell of another, *Braeton. li. 3. tract. 2. ca. 21. nu. 24.* who also seemeth to use this word for such, as hold by *Seargante*, or some service of another: as *campions faciunt homagium domino suo. li. 2. ca. 35.* Of this reade more in *Battell and Combat. 30.*

Chanceler (cancellarius) com-
meth of the French (*chancelier*) *Vincentius Lupanus de magistratis Francorum* saith, that (*cancellarius*) is no latine word: howbeit, he citeth divers Latine writers that do use it. With him agreeeth that excellent man *Petrus Pithens, libro 2. adversarium. ca. 12.* and whereas *Lupanus* would derive it from the verbe (*cancello*) *Pithens* confesseth, hee hath good colour for his opinion, though hee thinke it not found; and therefore rather deduceth it (*a cancellis.*) (*Cancellare*) is (*literas vel scriptum linea per medium ducta diminare*) and seemeth of it selfe likewise to be derived (*a cancellis*) which signifie all one with (*virnais*) in Greeke, which wee in our tongue call a *Letis*: that is, a thing made of wood or iron barres, laid crosse waines one over another, so that a man may see through them

them in and out. And it is to be thought, that Judgement sears in old time, were compassed in with those barres, being found most necessary to defend the Judges and other officers from the presse of the multitude, and yet never the more to hinder any mans view, that had a desire or cause to observe what was done. *Cancellarius* at the first by the opinion of *Lispamus*, signified the registers or actuaries in Court (*grapharios sc. qui conservandis & excipendis judicium & ceteris dant operam*) *Pitheus* saith, they were such as wee now call (*Secretarios*) But this name in our dayes is greatly advanced, and not only in other Kingdomes, but in ours also, is given to him that is the chiefe man for matter of Justice (in private causes especially) next unto the Prince. For whereas all other Justices in our Common-wealth, are tied to the law, and may not swerye from it in judgement: the Chancelor hath in this the Kings absolute power, to moderate and temper the written Law, and subjecteth himself onely to the Law of nature and conscience, ordering all things *juxta aquum & bonum*. And therefore *Stanford* in his *Prerogative, ca. 20. fo. 65.* saith, that the Chancelor hath two powers, one absolute, the other ordinarie: mea-

ning, that though by his ordinary power in some cases, hee must observe the forme of proceeding, as other ordinary Judges: yet that in his absolute power hee is not limited by the written law, but by conscience and equitie, according to the circumstances of the matter in question. But how long hee hath had this power, some would doubt. For *Polidorus Virgilium, lib. 9. historie Anglica*, hath these words of *William the Conqueror: Instituit item Scriborum Collegium, qui diplomatica scriberent, & ejus Collegii magistrum vocabat Cancellarium, qui paulatim supremus factus est Magistratus, quibus hodie habetur*. And see *Flet. lib. 2. cap. 13.* This high Officer, seemeth to be derived from *France* unto us, as many other Officers and usages be. For of this thus writeth *Boerius* in his *Tractate De auctoritat. Magni Concilii. nro. 8. Consistorio Francia post Principem Dominus Francie Cancellarius, cuius velut excelsum judicij tribunal hoc in regno (sub Principe tamen nostro) moderans, sigillumque authenticum, quo sine publicis & patentibus regis literis nullis fides adhibetur, liberam administrationem habenti, omnes & singuli regis Justiciarii, quocunque nomine nuncupentur, ac quavis auctoritate fungantur, eo inferires sunt. Et merito: Succedit enim in quaestoris locum, &c.*

He that beareth this Magistracie, is called the Chanclor of England, anno 7. R. 2. cap. 14. and by the Statute anno 5. Eliz. cap. 18. the Lord Chancelor and Keeper have all one power. Note farther that divers inferior Officers, are called Chancellors, as Chancelor of the Exchequer, an. 25. H. 8. cap. 16. whose office hath been thought by many, to have been created for the qualifying of extremities in the Exchequer. He sitteth in the Court, and in the Exchequer chamber, and with the rest of the court ordereth things to the Kings best benefit: he is alwayes in commission with the Lord Treasurer for the letting of the lands that came to the crowne by the dissolution of Abbeyes: and hath by privie seale from the King, power with others to compound for forfeitures of bonds, and forfeitures upon penall statutes. He hath also much to doe in the revenue come by the dissolution and first fruits, as appeareth by the acts of uniting them to the Crowne. Chancelor of the Dutchie of Lancaster, anno 3. Ed. 6. cap. 1. & an. 5. ejusdem. cap. 26. whose office is principall in that Court to judge and determine all controversies betweene the King and his tenents of the Dutchie land, and otherwise to direct all the Kings affaires belonging to that

Court. Chancelor of the Order. i. of the Garter, *Stowes annals*, pag. 706. Chancelor of the Universitie, anno 9. H.5. cap.8. & anno 2. H. 6. cap. 8. Chancelor of the Court of Augmentations, anno 27. H. 8. cap. 27. & anno 32. *ejusdem*, cap. 20. & anno 33. *ejusd.* cap.39. Chancelor of the first fruits, anno 32. H. 8. cap. 45. Chaucelor of Courts, anno 32. H. 8. cap. 28. Chancelor of the Diocese, anno 32. H.8. cap.15.

Chancerie (Cancellaria) is the Court of equitie and Conscience, moderating the rigour of other Couris, that are most straightly tyed to the Letter of the Law, whereof the Lord Chancelor of England is the chiefe Judge. *Cromptons jurisd.* fol. 41. or else the Lord Keeper of the great Seale, sithence the statute 5. Eliz. cap. 18. It taketh the name from the Chancelor, as *M. Cambden*. noteth in his *Britannia*. pag. 114. *in meo*. The Officers belonging to this court, are (as is abovesaid) the Lord Chancelor or Keeper of the broad seale, twelve Masters of the Chancerie, whereof the Master of the Rolls is one and the chiefe, the sixe Clerks, the Examiners, a Sergeant at Armes, the Marshall, and Crier of the court, the clerks of the courts, otherwise called Courseters, the Clerkes of the Pettie bagge, the Clerke of the Crowne, the

clerk of the hanapar, the protionary or register, the controller of the hanaper, the clerke of appeales, the sealer, the chafe waxe, the clerke of the faculties, the clerk of the patents, clerk of the starre chamber, clerk of presentations, clerke of dismissions, clerke of licences to alienate, clerkes of the enrolements, clerke of the protections, clerke of the court of wards, clerke of the subpenaeas, which see described in their places.

Chapell (*capella*) commeth of the French (*chapelle*. i. *edicula*) and is of two sorts, either adjoyning to a Church, as a parcell of the same, which men of worth do build, *ut ibidem familiaria sepulchra sibi constituant*, to the use of the Romanes, l. 5. n. *de religio*: or else separate from the Mother Church, where the Parish is wide, and is commonly called a Chappell of ease: because it is builded for the ease of one or more Parishioners that dwell over farre from the Church, and is served by some inferior Curate provided at the charge of the rector, or of them that have benefit by it, as the composition or custome is. Whence the word is derived, the Canonists differ in opinion. *Rebuffus de pacif. posses.* nro. 104. saying, that some take it (*à capiendo laicos*) others (*à capra*) because it representeth those

cottages, which men were wont to cover over with Goats skins. *Petrus Gregorius in suo syntagma* li. 15. ca. 29. hath these words of this thing: *Capellanus à capellania & capelli, cui presicitur, nominantur: item ab officio seu beneficio & capellania. Capella aliquibus dicta, quasi capiens animis seu populos, vel capiens landem: vel secundum præpositum, à cappa Divi Martini, aut à caprinis pellibus, quibus olim altaria tegebantur secundum Archidiaconum. Arbitrari & à simplici techo, quo oratorium campestre operitur, lateribus undique patentibus & patulis. Tenuit enim Gallis simpliciter dicitur (chapelle) a capite. Vnde & forma ta aliqua nomina (chapeon, cape, &c.) Aut capella locus qui minoris spatii sit quam ecclesia, quod tot homines non capiat, ut ecclesia. Ita altare capella est. ca. quasitum, & c. penult. i. quest. 3. Joha. Andreas. in ca. 1. de success. ab intesta. & prebenda cum onere quotidie celebrandi sacram littergiam. ca. significatum. II. de prebend. & oratori um. ca. authoritate: de privilegiis. in 6. quod in eo loco orationes non alie res profane peragi debeant. ca. pen. & fina. 42. distinct. The same author in his booke *de beneficiis*, ca. 11. nro. 10. hath these words: *Dicti porro primitus capellani, a cappa Sancti Martini, quam Reges Francorum ob adjutorium in præliis solebant secum habere: quam ferentes**

tes & custodientes, cum ceteris sanctorum reliquis clericis, capellani caperunt vocari, ut omnia resert Valfridus Strabo. Abbas Augensis, ca. fina. de incrementis rerum ecclesiasticis.

There is of these chapels one kind called a free chapell, which seemeth to be such as hath maintenance perpetuall toward the upholding thereof, and wages of the curate, by some land charitably bestowed on it, without the charge of the Rector or parish. anno 37. H. 8. cap 4. anno 1. Ed. 6. ca. 14.

Chapellaine, (capellanus) is he that performeth divine Service in a chapell; and therefore in our common Law, it is used most ordinarily for him, that is depending upon the King, or other man of worth, for the instruction of him and his family, the executing of prayers and preaching in his private house, where commonly they have a chapell for that purpose, as anno 21. H. 8. ca. 13. Where it is set downe what persons may priviledge one or moe Chaplaines, to discontine new from their benefices, for their particular service.

Chapters (capitula) commeth of the French (*chapitre. i. caput libri*) It signifieth in our common law, a summary or content of such matters, as are to be inquired of or presented before Justi-

ces in *Eyre*, Justices of Assise, or of peace in their sessions. So is it used, anno 3. Ed. 1. cap. 27. in these words: and that no Clerke of any Justice, Escheatour, or Commissioner in *Eyre*, shall take any thing for delivering chapteres, but onely Clearks of Justices in their circuits: and againe, anno 13. ejusdem. cap. 10. in these words: and when the time commeth, the Sheriffe shall certifie the chapteres before the Justices in *Eyre*, how many Writs he hath, and what, &c. Britton likewise useth the same word in this signification, cap. 3. *Chapters or (capitula)* be now called articles most ordinarily, and are delivered as well by the mouth of the Justice in his charge, as by the Clearks in writing to the enquest; whereas in auncient times (as appeareth by *Bracon* and *Britton*.) they were after an exhortation given by the Justices for the good observation of the lawes and Kings peace, first read distinctly and openly in the whole court, and then delivered in writing to the grand enquest. And the same order doth *M. Lamberd* wish to be kept in these dayes also. *Eirenar. lib. 4. cap. 4. pag. 393.* *Horn* in his mirrour of Justices calleth them articles, & exprefseth what they were wont to containe. li. 3. ca. des articles in *Eire*. An example of these chap-

chapters or articles you have in the book of assises, fol. 138. nu. 44. as also in Roger Hoveden, parte poster. suorum annal. in Ricardo pri-
mo. fol. 423.

Chapter, (capitulum) signifieth in our common Law (as in the Cannon Law, whence it is borrowed) congregationem clericorum in ecclesia cathedrali, conventuali, regulari, vel collegiata: and in another signification, locum in quo sunt communes tractatus collegiorum. It hath other significations, though not greatly worth the repeating in this place, which you may reade in *Linwods provincials, glos. in ca. quia in continetia, de constitutionibus, verb. Capitulus.* Why this collegiat company should be called (*capitulum*) of the canonists, a man may make a question: and for answer, it may be said, that it is metaphorically so termed, the word originally signifying a little head. For this company or corporation is a kinde of head, not onely to rule and governe the Diocese in the vacation of the Bishopricke, but also in many things to advise the Bishop, when the See is full. See *Panormitan. in ca. capitulum. extra de rescriptis.*

Charta perdonationis se defendendo, is the forme of a pardon for slaying another in a mans owne defence. *Register. original. fol. 287.*

Charta perdonationis Vilagarie, is the forme a pardon for a man that is out-lawed. *Regi. orig. fol. 288. 388.*

*Charter (charta) commeth of the French (chartres. i. instrumen-
ta.) It is taken in our Law, for written evidence of things done betweene man and man, whereof Bracton. lib. 2. cap. 16. num. 1. saith thus: Finnt aliquando dona-
tiones in scriptis, sicut in chartis ad
perpetuam rei memoriam, propter
brevem hominum vitam, &c. and a little after: nu. 12. Et sciendum,
quod chartarum alia regis, alia pri-
vatorum; & regiarum alia privatis,
alia communis, & alia universalis.
Item privatorum, alia de puro fe-
offamento & simplici, alia de feoffa-
mento conditionali sive conventio-
nali: & secundum omnia genera
feoffamentorum fieri potest. Item
privatorum alia de recognitione
pura vel conditionali. Item alia
de quiete-clamantia: Item alia de
confirmatione, &c. and so though
the chapter. Briton likewise in his 39. chapter, divideth charters into the Charters
of the King, and charters of
private persons. Charters of the
King are those, whereby the
King passeth any grant to any
person or more, or to any body
politicke: as a charter of ex-
emption that a man shall not bee
empaneled upon any Jury. Kit-
chin. fol. 114. & fol. 177. charter
of*

of pardon, whereby a man is forgiven a felony, or other offence committed against the Kings Crowne and dignitie. *Broke, tit. Charter of pardon.* Charter of the Forest, wherein the lawes of the Forest are comprised. *anno 9. H. 3. Cromptons juris. fol. 147. Pupilla oculi, parte 5. cap. 22. Manwood.* parte 1. of his Forest lawes, fol. 1. where he setteth downe the Charters of *Camitus*, and fol. 17. where he hath set downe that which was made, *anno 9. H. 3.* with the charter of the Forest which wee use, *M. Skene* saith, that the lawes of the Forest in Scotland doe agree. *de verbo signif. verbo. Venison.* Charter of land. *Broke, eodem titulo.* That which wee call a Charter, the *Lombards in libris feudalibus*, call *præceptum (præceptionum) Hotama.* *verbo præceptum in verbis feudalibus.* Of these Charters you have also a long discourse in *Fleta. lib. 3. cap. 14.* who expoundeth every substantiall part of a deed of gift particularly in order.

Charter land, (terra per chartam) is such as a man holdeth by Charter, that is, by evidence in writing; otherwise called Freehold, *anno 19. H. 7. cap. 13.* and *Kitchin, fol. 86.* and these in the *Saxons time*, were wont to be called (*Bockland*) *Idem fo. 89.* and *Lamberd* in his explication of

Saxon words, *verbo Terra ex scripto*, which was held as hee there faith, with more commodious and easier conditions, then (*Folkland*) was: that is land held without writing. And the reason he giveth, because that was *hereditaria, libera, atque immunis:* whereas *fundus sine scripto censem pensitabat annum, atq; officiorum quadam servitute est obligatus.* *Priorem viri plerumq; nobiles atq; ingenui, posteriorum rustici ferè & pagani possidebant.* *Illam nos vulgo free-hold & per chartam, hinc ad voluntatem domini appellamus.* Thus farre *M. Lamberd.*

Charta partie (charta partita) is nothing but that which we call a paire of Indentures, containing the covenants and agreements made betweene Merchants, or Sea-faring men, touching their maritime affaires, *anno 32. H. 8. cap. 14.*

Chartis reddendis, is a Writ, which lyeth against him that hath Charters offeoſment delivered him to be kept, and refuseth to deliver them, *Old nat. br. fo. 66. Register orig. fo. 159.*

Chase. See *Chace.*

Chatell. See *Catell.*

Chawnce medley (Infortunium) commeth of two French words (*chance. i. lapsus*) and (*mestier. i. miscere*) It signifieth in our common law, the casuall slaughter of a man, not altogether with-

out the fault of the slayer. *Stawnf.*
pl. cor. li. 1. ca. 8. calleth it *homicide* by misadventure, *W. st.* calleth
 it *homicide mixt.* *part. 2. symbol.*
tittu' o Indictments. sect. 50. and
 there definieth it thus: *Homicide mixt* is, when the killers igno-
 rance or negligence is joyned
 with the chance: as if a man lep
 trees by an high way side, by
 which many usually travell, and
 cast downe a bow, not giving
 warning to take heed thereof, by
 which bow one passing by is
 slaine: In which case he offend-
 eth, because hee gave no war-
 ning, that the partie might have
 taken heed to himselfe. See *Skene*
de verbo signifi. verbo Melle-
ium.

Chaugeour, is an officer belon-
 ging to the Kings mint, whose
 function seemeth especially to
 consist, in exchanging coine for
 gold or silver in the Masse,
 brought in by Merchants or o-
 thers, *anno 2. H. 6. ca. 12.*

Charwntery, (*cantaria*) is a
 Church or Chappell endewed
 with lands or other yearely re-
 venue, for the maintenance of
 one or moe Priests, daily to sing
 Masse for the soules of the Do-
 nours, and such others, as they
 doe appoint, *anno 37. H. 8. ca. 4.*
anno 1. Ed. 6. ca. 14.

Check rolle, seemeth to bee a
 rolle or booke, that containeth
 the names of such, as are atten-

dants and in pay to great persona-
 ges, as their houshold servants.
 It is otherwise called the chequer
 rolle, *anno 24. H. 8. ca. 13. anno 3.*
H. 7. cap. 13. and seemeth to have
 one etymologie with eschequer.
 Which see.

Chevage, (*chevagium*) commeth
 of the French (*chef.i. caput*)
 It signifieth with us, a summe of
 money paid by villeins to their
 Lords, in acknowledgement of
 their slavery. Whereof *Bracton,*
li. 1. ca. 10. saith thus: *chevagium*
dicuntur recognitio in signum subje-
ctionis & dominii de capite suo. It
 seemeth also to bee used, for a
 summe of money, yearly given
 by a man to another of might and
 power, for his avowement,
 maintenance, and protection, as
 to their head or leader. *M. Lam-*
berds, li. 2. cap. 5. *Eirenarch,* wri-
teheth it (*chivage*) or rather (*chie-*
fage.)

Cheviance, commeth of the
 French (*chevir. i. venir a chief de*
quelque chose) to come to the
 head or end of a busines, to per-
 fect a matter. This word is used
 for bargaining, *anno 37. H. 8.*
cap. 9. & anno 13. Eliza. ca. 5. &
8. ann. 10. R. 2. cap. 1. & anno 3.
H. 7. cap. 5.

Chief. See *Capite*.

Chiefe pledge, (*plegius, vel vas*
capitalis) *an. 20. H. 6. ca. 8.* For
 the understanding of this word,
 See *Borowhead*.

Childrit, commeth of the Saxon word (*child*,) and (*wit*) which some say, in that tongue, is a termination of certain words without signification, as (*dom*) in (*Cristendom*) or (*hoed*) in (*childhood*) with us. But for the signification of (*wit*) see *Bloudwrit*. *Childrit* signifieth a power to take a fine of your bondwoman begotten with childe without your consent, *Rastall. exposit.* of words.

Chimia, (*chimirinus*) commeth from the French (*chemin*. i. *aditus*, *via*) and signifieth in our common law, a way. It is divided into two sorts: the Kings high way, and a private way, *Kitchin* fo. 35. The Kings high way (*chimirinus regius*) is that, by which the Kings subjects, and all others under his protection, have free libertie to passe, though the propertie of the soyle of each side, where the way lieth, may perhaps belong to some private man. A way private is that, by which one man or more have libertie to passe, either by prescription or by Charter, through another mans ground. And this is divided into *chymin* in grosse, and *chymin appendant*. *Kitchin* fo. 117. *Chymin* in grosse is that way, which a man holdeth principally and solely in it selfe: *chymin appendant* is that, which a man hath adjoyned to some o-

ther thing as appertinent thereunto. For example, if a man hire a close or pasture, and covenant for ingresse and egressse to and from the said close, through some other ground, by the which otherwise hee cannot passe. Or *Chimin* in grosse may be that, which the Civilians call personall: as when one covenanteth for a way through another mans ground, for himselfe and his heires: *Chimin appendant*, on the other side, may be that which they call reall: as when a man purchaseth a way through another mans ground, for such as doe or shall dwell in this or that house for ever, or be owners of such a manor.

Chimagine, (*chimiragium*) signifieth a toll for wayfarage thow-
row the Forest, *Cromptons jurisd.* fo. 189. and *Manwood parte I.* of his Forest lawes, pag. 86. See *Chimin*. The *Fewdists* call it, *Pedagium*. See *Chimin*.

Chirographer of Fines (*chirographus finium & concordiarum*) commeth of the Greeke (*χειρογραφοι*) which signifieth a writing of a mans owne hand, whereby hee acknowledgeth a debt to another. It signifieth in our common law, him in the Common Bench office, that ingrosseth Fines in that Court acknowledged, into a perpetuall record, after they be acknow-

ledged, and fully passed by thuse Officers, by whom they are formerly examined; and that writteh and delivereth the Indentures of them unto the partie, anno 2. H. 3. c. 1. p. 8. and West. Symbol. parte 2. titulo fines. sect. 114. & 129. Fitzb. n. s. t. tr. f. l. 147. A. This Officer also maketh two Indentures, one for the Buyer, another for the Seller; and makerh one other indented piece, containing alio the effect of the Fine, which hee delivereth over to the *Custos brevium*, that is calld the foot of the Fine. The *Chirographer* also, or his Deputie, doth proclame all the Fines in the Court every Terme, according to the Statute; and then repairing to the office of the *Custos brevium*, there indorseth the Proclamations npon the back-side of the foot thereof: and alway keepeth the Writ of Covenant, as alio the note of the Fine.

Chiouge. See *Cheverage*.

Chivalrie, (*servitium militare*) comineth of the French (*chevalier. i. eques*) and signifieth in our common law, a tenure of land by Knights service. For the better understanding whereof, it is to bee knowne, that there is no land, but is holden mediately or immediately of the Crowne, by some service or other: and therefore are all our Free-holds that

are to us and our heires, called (*Feuda*) fees, as proceeding from the benefit of the King, for some small yearly Rent, and the performance of such services, as originally were laid upon the Land at the donation thereof. For as the King gave to the great Nobles his immediete tenents, large possessions for ever, to hold of him for this or that rent and service: so they againe intime parcelled out to such as they liked, their lands so received of the Kings bountie, for rents and services, as they thought good. And these services are all by *Littleton* divided into two sorts: Chivalrie, & Socage. The one is martiall and military, the other clownish and rusticall. Chivalry therefore is a tenure of service, whereby the tenant is bound to performe some noble or military office unto his Lord, and is of two sorts: either regall, that is, such as may hold onely of the King: or such as may also hold of a common person, as well as of the King. That which may hold onely of the King, is properly called *Servitium*, or *Sergeantie*: and is againe divided into *grand* or *petit*, i. great or small. Great, commonly called *Grand Sergeantie*, is that where one holdeth lands of the King by service, which hee ought to doe in his owne person unto him: as to beare the Kings Banner,

Banner, or his Speare, or to lead his Hoast, or to be his Marshall, or to blow a Horne, when he seeth his enemies invade the Land, or to find a man at Armes to fight within the foure Seas, or else to doe it himselfe, or to beare the Kings Sword before him at his Coronation, or at that day to be his Sewer, Carver, Butler, or Chamberlaine, *Littleton tit.* *Sergeantie.* *Petit Sergeantie,* is where a man holdeth land of the King, to yeeld him yearly some small thing toward his warres, —as a Sword, Dagger, Bow, Knife, Speare, paire of Gloves of maile, a paire of Spurs, or such like. *Littleton titulo petit Sergeantie.* *Cbivalrie,* that may hold of a common person, as well as of the King, is called (*scutagium*) *escuage,* that is, service of the shield. And this is either uncertaine or certaine. *Escuage uncertaine* is likewise two-fold: first, where the tenant by his tenure is bound to follow his Lord going in person to the Kings wars against his enemies, either himselfe, or to send a sufficient man in his place, there to be maintained at his cost so many dayes, as were agreed upon betweene the Lord and his first tenant at the granting of the fee. And the dayes of such service seeme to have beeene rated by the quantitie of the land so holden:

as if it extend to a whole Knights fee, then the tenant was bound thus to follow his Lord fortie dayes. And a Knights fee, was so much land, as in those dayes was accounted a sufficient living for a Knight: and that was 680 acres, as some opinion is, or 800 as others thinke: or 15 pounds per annum. *Camdens Britan.* pag. 110. *in meo.* S. Thomas Smith sayeth, that *Census equestris* is fortie pounds revenue in free lands. If the law extend but to halfe a Knights fee, then the tenant is bound to follow his Lord, as above is said, but twentie dayes. If to a fourth part, then ten dayes, *Fitzb. nat. br. fo. 83. C. & 84. C. E.* The other kind of this Escuage uncertaine is called *Castelward:* where the tenant by his land is bound, either by himselfe, or by some other, to defend a Castle, as often as it shall come to his course. Escuage certaine, is where the tenant is set at a certaine summe of money, to bee paid in lieu of such uncertaine service, as that a man shall yearly pay for a Knights fee, twentie shillings, *Stow. annal.* pag. 238. for halfe a Knights fee, tenne shillings, or some like rate. And this service, because it is drawne to a certaine rent, growtheth to be of a mixt nature: not merely Socage, for that it smelleth not of the Plough, and yet Socage in effect:

effect: being now neither personall service, nor uncertaine, *Littleton, titulo Scage.* This tenure called Chivalrie, hath other conditions annexed unto it; as Homage, Fealty, Wardship, Reliefe, and Mariage, *Bracon lib. 2. cap. 35.* which, what they signifie, looke in their places. *Chivalrie* is either generall or especiall. *Dyer fo. 161. num. 47.* Generall seemeth to be, where only it is said in the Feofment, that the tenant holdeth *per servitium militare*, without any specification of Sergeantie, Escuage, &c. Speciall, that which is declared particularly what kind of Knights service he holdeth by.

Chorall, (choralis) seemeth to be any, that by vertue of any of the orders of Clergie, was in ancient time admitted, to sit and serve God in the Quire, which in Latine is termed *Chorus.*

Chose, (res) is the French word as generall as (*thing*) is with us. It is in the common law, used with divers Epithites worthy the Interpretation: as, *Chose locall*, is such a thing as is annexed to a place. For example: a Mill is *Chose locall*, *Kitchin fol. 18.* *Chose transitorie*, in the same place seemeth to bee that thing which is moveable, and may bee taken away, or carried from place

to place. *Chose in action*, is a thing incorporeall, and onely a right: as an Annuicie, an Obligation of debt, a Covenant, or Voucher by warrantie, *Broke titulo.* *Chose in action*. And it seemeth, that *Chose in action*, may be also called *Chose in suspence*, because it hath no reall existence or being, neither can be properly said to be in our possession, *Broke ibidem.*

Church-wardens (Ecclesiarum gardiniani) bee Officers yearly chosen, by the consent of the Minister and Parishioners, according to the Custoome of euerie severall place, to looke to the Church, Church-yard, and such things as belong to both, and to observe the behaviours of their Parishioners for such faults as appertaine to the Jurisdiction or censure of the Court Ecclesiasticall. These be a kind of Corporation, inabled by law, to sue for any thing belonging to their Church, or Poore of their Parish. See *Lamberd* in his Pamphlet of the duty of *Church-wardens.*

Churcheset, is a word that I find in *Fleta lib. 1. cap. 47. in fine*: whereof he thus writeth: *Certam mensuram bladi tritici significat, quam quilibet olim sancte Ecclesie die Sancti Martini tempore tam Britonum quam Anglorum contribuerunt. Plures tamen magnates, post Roma-*

Romanorum adventum, illam contributionem secundum uterem legem Moysi nomine primitiarum dabant; prout in brevi regis Knuti, ad sunnum Pontificem transmisso, continetur, in quo illam contributionem, (chirchised) appellant, quasi semen Ecclesie.

Cinamom (*cinnamomum*) is a tree, wherof the barke is knowne to be a pleasant, comfortable, and medicinall spice, which you have described in *Gerards Herball*, li. 3. cap. 142. This is reckoned among garbleable spices, anno 1. *Jac.* cap. 19.

Cinque portes (*quinque portus*) be those speciall Havens, that lie toward France, and therefore have been thought by our Kings, from time to time, to be such as ought most vigilantly to be observed against Invasion. In which respect, the places where they be, have an especiall governour or keeper, called by his office Lord Warden of the Cinque Ports: and divers privileges granted unto them, as a particular jurisdiction, their Warden having the authoritie of an Admirall among them, and sending out writs in his owne name. Crompton in his Juriidictions, fol. 28. nameth the Cinque ports, Dover, Sandrich, Rye, Hastings, Winckelsea, Rumney, Hithe: whereof some, becaute the number exceedeth five, must either be added to the first initi-

tution, by some later graunt, or be accounted as appendents to some of the rest. See *Gardein of the Cinque ports*: and the Statute anno 32. H. 8. cap. 48.

Circuit of action (*circui us actionis*) is a longer course of proceeding, to recover the thing sued for, then is needfull. See the new *Tearmes of law*.

Circumstantibus, is a word of art, signifying the supply or making up of the number of Jurors, (if any empaneled appear not, or appearing, be challenged by either partie) by adding unto them so many other of those that are present or standing by, as will serve the turne, v. an. 35. H. 8. cap. 6. and anno 5. *Elizab.* cap. 25.

Civie (*civitas*) commeth of the French (*cité*) and signifieth with us, as it doth in other Regions, such a Towne corporate, as hath a Bishop and a Cathedrall Church. For *Lucas de Pennalege unica, tituli, De Metropol. Beryto. tit. 21. lib. 10. Cod.* hath these words: *Idem locus, urbs, civitas, & oppidum appellator.* (*Pro quo est etiam infra. De spectaculis. l. Nemo.*) *Civitas enim dicitur, quatenus cum iustitia & magistratum ordine gubernatur, oppidum, quatenus est ibi copia incolarum:* & *urbs, quatenus muris debito more cingitur.* *Propriè autem dici-*

dicitur civitas, quæ habet Episcopum. *Supra de Episcop. & Cleri.*
l. Nulli. Alias dicitur generaliter
omnis habitatio plurimorum, quæ
muro cingitur. *π. de verbo signif.*
lib. 2. & de penu lega. l. Nam quod
§. Si ita. Sed stricte loquendo, si
Episcopo caret, dicitur urbs. *π de*
verb. signif. l. Pupillus. §. Oppi-
dum, &c. Yet *M. Crompton* in
 his Jurisdictions, where he reckoneth up the Cities, leaveth out
Ely, though it have a Bishop and
 a Cathedrall Church, & putteth in
Westminster, though now it
 have no Bishop. And *ann. 35. Eliz. cap. 6.* *Westminster* is called a
 Citie, anno 27. *ejusd. cap. 5.* Of
 the Statutes not printed, it is alterna-
 tively termed a City or Bo-
 row. It appeareth by the Statute,
35. H. 8. cap. 10. that then there
 was a Bishop of *Westminster*. *Ci-*
vitas, according to *Aristotle*, *li. 3.*
politiorum, ca. pri. is defined to
 be a certain or uniforme govern-
 ment of the Inhabitants, & *Cesar*
civitatem vocat populum eodem iu-
reutentem. Cand. Britan. pa. 3 10.
 But this is the generall definiti-
 on of a Common-wealth, and not
 of a Citie, at the least, as we now
 adayes particularly take it. For
 over and beside that which is a-
 bove said, *Cassanus in consuetu-*
di. Burg. pag. 15. saith, that France
 hath within the territories of it,
 one hundred and foure Cities,
 and giveth reason of this his say-

ing, because there be there so
 many seates of Archbishops and
 Bishops.

Clack, as to clack, force, and
 bard, *alias*, beard good wools,
anno 8. H. 6. ca. 22. whereof the
 first, viz. to clack wool, is to cut
 off the sheepe's marke, which ma-
 keth it to weigh lesse, & so yeeld
 the lesse custome to the King; to
 force wooll, is to clip off the up-
 per and more hairy part of it; to
 bard or beard it, is to cut the head
 and neck from the rest of the
 fleece.

Clamea admittenda in itinere
per Attornatum, is a writ whereby
 the King commandeth the
 Justices in *Eyre* to admit of ones
 claime by *Attorney*, that is em-
 ployed in the Kings service, and
 cannot come in his owne person.
Register orig. fol. 19. b.

Clayme (*clameum*) is a chal-
 lenge of Interest in any thing
 that is in the possession of ano-
 ther, or at the least out of his
 owne: as, claime by Charter,
 claime by Descent. *Old nat. br.*
fol. 11. Si dominus infra annum
clameum qualitercumque apposue-
rit: Bracton lib. 1. cap. 10. See
 the definition and divers sorts of
 claime in *Plowden. Casu Stowel.*
fol. 359. a.

Clarentius. See *Herald.*

Clergie (*cerus, clericatus*) is
 diversly taken: sometime for the
 whole number of those, that are

(de)

de clero Domini) of the Lords lot or share, as the tribe of *Levyn* was in *Judea*: sometime for a plege to an Indictment, or an appeal, and is by *Statu[m] pl. cor. l.2. cap. 41.*, thus defined. *Clergy* is an ancient liberty of the Church, which hath beene confirmed by divers Parliaments, and is, when a Priest, or one within Orders, is arraigned of felony before a secular Judge, he may pray his Clergy, which is as much as if he prayed to be delivered to his Ordinary, to purge himselfe of the offence objected. And this might be done in case of murther. *Cooke lib. 4. fol. 46, a.* This libertie is mentioned in *articulis cleri, ann. 9 Ed. 2. cap. 16.* and what persons might have their Clergy, and what not, see *Statu[m] pl. cor. lib. 2. c. 3. 42 & 43.* Howbeit there be many statutes made since he writ that booke, wherby the benefit of Clergy is abridged: As anno 8 Eliz. cap. 4. an. 14 ejusd. c. 5. anno 18 ejusdem, cap. 4, 6, 7. & anno 23 ejusd. cap. 2. a. 29 ejusdem, c. 2. ann. 3. ejusd. c. 12, a. 39 ejusd. cap. 9. & an. 15. Of this see *Cromptons Justice of peace*, fol. 102, 103, 104, 105. And *Lambers Eirenarcha*, lib. 4. c. 14. pag. 543. And note by the way, that the ancient course of the Law in this point of Clergy, is much altered, for by the Statute Anno 18 Eliz. cap. 7. Clerks be no more

delivered to their Ordinaries to be purged, but now every man, though not within orders, is put to reade at the barre, being found guilty, and convicted of such felony as this benefit is granted for: and so burnt in the hand and set free for the first time, if the Ordinaries Commissioner, or Deputy standing by doe say (*legit ut Clericus*) or otherwise suffereth death for his transgression.

Clerico admittendo, is a writ directed to the Bishop, for the admitting of a Clerke to a Benefice upon a (*N[on] admittas*) tried and found for the party that procureth the writ. *Reg. orig. fol. 31, 6.*

Clerico captivo per statutum mercatorum, &c. is a writ for the delivery of a Clerke out of prison, that is imprisoned upon the breach of a statute merchant. *Reg. orig. f. 147.*

Clerico convictu commisso gaole in defectu ordinarii deliberando, &c. is a writ for the delivery of a clerk to his Ordinary, that formerly was convicted of felony, by reason his Ordinary did not challenge him according to the privilege of Clerkes. *Regist. origin. fo. 69 a.*

Clerico infra sacros ordines constituto non elegendo in officium, is a writ directed to the Bailiffes, &c. that have thrust a Payliwicke or beldispp. upon one in holy Orders, charging them to release him againe.

gaine. Register orig. fol. 143, a.
Clerke (clericus) hath two significations: one, as it is the title of him that belongeth to the holy ministry of the Church, that is, (in these dayes) either minister or deacon, of what other degree or dignity soever: though according to former times, not onely *Sacerdotes & Diaconi*, but also *subdiaconi, cantores, acolyti, exorciste, & ostiarii*, were within this account, as they be at this day, where the Canon law hath full power. And in this signification a Clerke is either religious (otherwise called *regular*) or *secular*, anno 4 Hen. 4. cap. 12. The other signification of this word noteth those, that by their function or course of life practise their pen in any court, or otherwise; as namely, the Clerke of the Rolles of Parliament, Clerkes of the Chancery, and such like, whose peculiar offices I purpose to set downe in order, according to that knowledge that I could procure of them,

Clerke of the Parliament Rollles, (clericus Rotulorum Parlamenti,) is hee that recordeth all things done in the high court of Parliament, and engrosseth them fairely into parchment rollles, for their better keeping to all posterity. Of these there be two, one of the higher, another of the lower or common house, Cromptons Jarisd.

fol. 4 & 8. *Smith de republ. Anglor. pag. 38.* See also *Vowels booke touching the order of the Parliament.*

*Clerke of the cronne in the Chancerie (clericus corone in Cancellaria) is an officer there, that by himselfe or his deputy is continually to attend the Lord Chancellor or Lord Keeper, for speciall matters of estate by commission or the like, either immediately from his Majesty, or by order of his privy councell, as well ordinary as extraordinary, viz. commissions of Lieutenancies, of Justices errant, and of Assises of Oyer and Terminer, of Gaole-delivery, of the peace, and such like, with their writs of Association, and *Dedimus potestatem*, for taking of oathes. Also all generall pardons upon grants of them at the Kings coronation, or at a parliament, where he sitteth in the higher house at the parliament time; the writs of parliament; with the names of Knights and Burgesses, which be to be returned into his office. He hath also the making of all speciall pardons and writs of execution, upon bonds of statute of the Staple forfeited: which was annexed to his office in the reigne of Queene Mary, in consideration of his continuall and chargeable attendance: both these before being common*

for every cursitour and clerke of court to make.

Clerke of the crowne (clericus coronae) is a clerk or officer in the Kings Bench, whose function is, to frame, reade, and record all indictments against Traitors, Felons, and other offenders there arraigned upon any publique crime. Hee is otherwise termed Clerke of the crowne office. And *ann.z. H.4. cap.10.* he is called Clerke of the crowne of the kings Bench.

Clerke of the Extreats (clericus Extractorum) is a clerke belonging to the Exchequer, who termely receiveth the Extreats out of the Lord Treasurers Remembrancer his office, and writeth them out to be levied for the King. Hee also maketh schedules of such summes extreated as are to bee discharged.

Clerke of assise (clericus assise) is he that writeth all things judicially done by the justices of assise in their circuits. *Crompton's Jurisdict. fo.227.*

Clerke of the Pele (clericus Pelis) is a Clerke belonging to the Exchequer, whose office is to enter every Tellers bil into a parchment rolle called *Pellis receptiorum*); and also to make another rolle of payments; which is called (*Pellis exitium*) wherein he setteth down by what warrant the money was payd.

Clerke of the Warrants (clericus Warrantorum) is an officer belonging to the court of Common plees which entreth all warrants of Attorney for plaintiff and defendant, and inrolleth all Deeds of Indentures of bargaine, and sale, which are acknowledged in the Court, or before any Judges out of the Court. And he doth extreat into the Exchequer all issues, fines, and americtaments, which grow due to the king any way in that court, and hath a standing fee of ten pounds of the king, for making the same extreats. See *Fitzh.nat.br.f.76.in prin.*

Clerke of the pety Bag (clericus parva bagie) is an officer of the Chauncerie, of which sort there be three, and the Master of the Rolles their chief. Their office is to record the returne of all inquisitions out of every shire, all Liveries granted in the Court of Wards, all ouster le maines, to make all patents of Customers, Gaugers, Controllers, and Aulnegers, All *cōge de eslirs*, for Bishops, All liberates upon extents of statute staples, the recoverie of Recognisances forfeited, and all Elegies upon them, the summons of the Nobilitie, Clergy, and Burgesses to the Parliament, Commissions directed to Knights, and other of every Shire, for seising of the Subsidies. Writs for the nomi-

nominations of Collectours for the fifteenths, and all traverses upon any office, bill or otherwise, and to receive the money due to the King for the same. This officer is mentioned, anno 33. H. 8. cap. 22.

Clerke of the Kings great wardrobe (*clericus magne garderobe regis*) is an officer of the Kings house, that keepeth an account or Inventory in writing, of all things belonging to the Kings wardrobe: This officer is mentioned, anno 1. Ed. 4. ca. 1.

Clerke of the Market (*clericus merketi*) is an officer of the Kings house, anno 1. Ed. 4. ca. 1. & anno 13. R. 2. ca. 4. whose duty is to take charge of the Kings measures, and to keep the standards of them (that is) the examples of all the measures that ought to be through the land: as of Elns, Yards, Lagens, as Quarts, Pottles, Gallons, &c. of Weights, Bushels and such like, and to see that all measures in every place be answerable unto the said Standard *Fleta li. 2. ca. 8. 9. 10. 11. 12.* of which office, as also of our diversitie of weights and measures, you may there finde a Treatise worth the reading. Britton also, in his 30 chapter, saith in the Kings person, to this effect: We will that none have Measures in the Realm but wee our selves: but that every man take his Mea-

sures and Weights from our Standards: and so goeth on with a Tractat of this matter, that well sheweth the ancient law and practice in this point. Touching this officers duty, you have also a good statute, anno 13. R. 2. cap. 4.

Clerk of the Kings silver (*clericus argenti Regis*) is an officer belonging to the Court of Common pleas, unto whom every fine is brought, after it hath been with the *custos Brevia*, and by whom the effect of the writ of Covenant is entred into a Paper-booke; and according to that note, all the fines of that Term are also recorded in the Roles of the Court. And his entrie is in this forme: He putteth the shire over the Margin, and then saith, *A. B. dat domino Regi dimidium merkans* (or more according to the value) *pro licentia concordandi C. cum C. D. pro talibus terris, in tali villa,* & *habet chirographum per pacem admissum, &c.*

Clerke of the Peace (*clericus pacis*) is an officer belonging to the Sessions of the peace. His duty is, in the Sessions to read the Endictments, to enroll the Acts, and draw the processe: to record the Proclamations of rates for servants Wages, to enroll the discharge of Apprentices, to keepe the Counterpaine of the Indenture of Armour, to keepe the

the Register book of Licenses, given to Badgers and laders of corn, and of those that are licensed to shoo in gunnes, and to certifie into the Kings bench transcripts of Indictments, Outlawries, Attainders, and Convictions had before the Justices of the peace, within the time limited by statute. *Lambers Eirinarchz, lib. 4. cap. 3. fo. 379.*

Clerke of the Signet (*clericus signetti*) is an officer attendant continually on his Majesties principall Secretary, who alwayes hath the custody of the privy Signer, as well for sealing his Majesties privat Letters, as also such grants as passe his Majesties hands by bill assigned. Of these there be four that attend in their course, and have their dyet at the Secretaries table. More largely you may reade of their office in the statute made anno 27 Henric. 8. cap. II.

Clerke of the privy seale (*clericus privati sigilli*) is an officer (whereof there be foure in number) that attendeth the Lord keeper of the privy Seale, or if there be none such, upon the principal Secretary, writing and making out all things that be sent by warrant from the Signet to the privy Seale, and are to be passed to the great Seale, as also to make out (as they are termed) privy Seales upon any e-

speciall occasion of his Majesties affaires; as for loane of mony, and such like. Of this officer and his function, you may reade the statute, anno 27 Henr. 8. cap. II. He that is in these dayes called the Lord keeper of the privy Seale, seemeth in antient time to have been called Clerke of the privy Seale, and to have bee ne reckoned in the number of the great officers of the realme. Reade the statute, anno 12 R. 2. ca. II.

Clerke of the Juries or Jurata writs (*clericus Juratorum*) is an officer belonging to the court of the Common plees, which maketh out the writs called (*Habitas corpora*) and (*Distringas*) for appearance of the Jury, either in court, or at the Assises, after that the Jury or Panel is returned upon the (*Venire facias*.) He entreteth also into the Rolles the awarding of these writs, and maketh all the continuance from the going out of the (*Habitas corpora*) untill the verdict be given.

Clerk of the Pipe (*clericus pipe*) is an officer in the Kings Exchequer, who having all accounts and debts due to the King, delivered and drawne out of the Remembrancers offices, chargeth them downe into the great Rolle: who also writeth summons to the Sheriff, to levy the said debts upon the goods and catels of the Debtorrs: and if

they have no goods, then doth he draw them downe to the Lord Treasurers Rememberancer, to write extreats against their lands. The antient review of the Crown remaineth in charge before him, and he seeth the same answered by the Ferners and sherifes to the King. Hee maketh a charge to all sherifes, of their summons of the Pipe and Green wax, and seeth it answered upon their accounts. He hath the drawing and ingrossing of all leases of the Kings land.

Clerke of the Hamper or Hanaper (clericus Hanapersi) is an Officer in Chauncery, ann. 2. Edw. 4. cap. i. otherwise called Warden of the Hamper, in the same statute, whose function is to receive all the mony due to the kings Majestie for the seals of Charters, patents, commissions, and writs, as also fees due to the officers for enrolling and examining the same, with such like. He is tied to attendance on the Lord Chauncellor or Lord Keeper daily in the Terme time, and at all times of sealing, having with him leather bagges, wherein are put all Charters, &c. after they be sealed by the Lord Chauncellour, and those bagges beeing sealed up with the Lord Chauncellours private seale, are to be delivered to the Controller of the Hamper, who upon receipt of them, doth as you shall

reade in his office. This Hanaper representeth a shadow of that which the Romanes termed (*Fiscum*) that contained the Emperors treasure.

Clerke of the Pleas (clericus placitorum) is an officer in the Exchequer, in whose office all the Officers of the court (upon especiall priviledge belonging unto them) ought to sue or to bee sued upon any action.

Clerke of the Treasury (clericus thesaurarie) is an officer belonging to the Common pleas, who hath the charge of keeping the records of the court, and maketh out all the Records of *Nisi prius*, hath the fees due for all searches, and hath the certifying of all records into the kings Bench, when a writ of Error is brought; and maketh out all writs of (*Suspensus de non molestando*) which are granted for the Defendants while the writ of Error hangs. Also he maketh all Exemplifications of Records being in the Treasurie. Hee is taken to be the servant of the chiefe Justice, and removeable at his pleasure, whereas all other officers are for tearme of life. There is also a Secondary, or Under-Clerke of the Treasury for assistance, which hath some allowances. There is likewise an Under-keeper, who alway keepeth one key of the treasury doore, and the chiefe

chiefe Clerk of the Secundary another, to the one canot come in without the other.

Clerke of Essoines (*clericus esso-
piorum*) is an officer belonging to the court of Common plees, who onely keepeth the Essoines rolle, and hath for entring every essoine six pence, and for every exception to barre the essoine, in case where the party hath omitted his time, six pence. Hee hath also the providing of parchment, and cutting it out into rolles, and marking the numbers upon them, and the delivery out of all the rolles to every officer, and the receiving of them againe when they be written, and the binding and making up of the whole bundles of every term: and this he doth as servant to the chief Justice. For the chiefe Justice is at charge for all the parchment of all the rolles.

Clerke of the outlawries (*clericus
utlagariarum*) is an officer belonging to the court of common plees, being onely the servant or Deputy to the Kings Attorny generall, for making out the writs of (*capias ut-
lagatum*) after outlawry. And the kings Attorneys name is to every one of those writs. And whereas seven pence is payd for the seale of every other writ, betwixt party and party, there is but a penny payd for the seale of this writ, because it goeth out at the kings suit.

Clerke of the sewers (*clericus sue-
rarum*) is an officer appertaining to the commissioners of sewers, writing all things that they doe by vertue of their commission, for the which see *Sewers*, and see the statute of *Anno 13 Elizab.* cap. 9.

*Clerke controller of the Kings
house* (whereof there be two) is an officer in court, that hath place and seate in the Counting house, and authority to allow or disallow the charges and demands of pursuivants or messengers of the Green cloake, purveyours, or other like. He hath also the oversight and controlling of all defaults, defects, and miscarriages of any the inferiour officers, and to sit in the counting house with the superior officers, viz. the Lord Steward, Treasurer, Controller, and Cofferer, either for correcting or bettering things out of order; and also for bringing in countrey provision requisite for the Kings housshold: and the censure for failing of carriages and carts warned and charged for that purpose. This Officer you have mentioned, *ann. 33.
H.8. cap. 12.*

Clerke of the Nibils (*clericus
Nikilorum*) is an officer in the Exchequer, that maketh a rolle of all such summes as are nihiled by the Sherifffes upon their estreans of greene way, and deli-
vereth

vereth the same into the lord treasurers Remembrancer his office, to have execution done upon it for the king.

Clerke of the check is an officer in court, so called because he hath the check and controllment of the yeomen of the Gard, and all other ordinary yeomen or huissiers belonging either to his Majestie, the Queene, or Prince, either giving leave, or allowing their absences or defects in attendance, or diminishing their wages for the same. He also nightly by himselfe or deputy, taketh the view of those that are to watch in the Court, and hath the setting of the watch. This officer is mentioned, *Anno 33. Henric. 8. cap. 12.*

Clerke Marstiall of the Kings house, seemeth to be an Officer that attendeth the Marshall in his Court, and recordeth all his proceedings, *Anno 33 Henr. 8. cap. 12.*

Clothe of Raye, *an. 27 E. 3. statu. 1. cap. 4.*

Closse, is an unlawful game forbidden by the statute, *anno 17 E. 4. cap. 3.* which is casting of a bowle at nine pinnes of wood, or nine shanke bones of an oxe or horse.

Clove is the 32 part of a weight of cheese, *eigho pound*, *an. 19 H. 6. cap. 8.* now called *clay*.

Cloves (*caryophylli*) are a spice

knownne by sight to every man. They are flowers of a tree called (*caryophyllus*) gathered and hardened by the Sunne. Of their nature you may reade in *Gerards Herbal*, *li. 3. ca. 144.* This is comprised among such spices as bee to bee garbled. *anno 1. Jacob. ca. 19.*

Cockee (*coketrum*) is a seale appertaining to the Kings Customehouse, *Regist. orig. fol. 192 a.* and also a scrow of parchment sealed and delivered by the officers of the Custome house to Merchants, as a warrant that their merchandise be customed, *anno 1 H. 6. ca. 16.* which parchment is otherwise called *literæ de coketto*, or *literæ testimoniales de coketto*, *Regist. ubi supr. fol. 179 a.* So is the word used, *anno 5 & 6 Edw. 6. ca. 14.* and *anno 14 Edw. 3. stat. 1. ca. 21.* This word is also used for a distinction of bread in the statutes of bread and ale, made *anno 5 H. 3.* where you have mention of bread *coker*, *watell bread*, *bread of trete*, and *bread of common wheat*.

Coffer of the Kings household, is a principall officer of his Majesties court next under the controller, that in the counting house, and elsewhere at other times hath a speciall charge and oversight of other officers of the household, for their good demeanour and carriage in their offices, to all which

which one & other, being either Sergeants , Yeomen , Groomes Pages, or children of the kitchin, or any other in any roome of his Majesties servants of houſhold, and payeth their wages. This officer is mentioned, *an. 39 E/iz.*
cap. 7.

Cogs, an. 23 H.8, cap. 18.

Cognisour of a fine, is he that paſſeth or acknowledgeth a fine in lands or tenements to another : *Cognisee* is he to whom the fine is acknowledged. *West, parte 2. symbol. tit. Fines, ſect. 2.*

Cognizance, commeth from the French (*cognisance*, id est, *intelligentia, intellectus, notia, cognitio*) with us it is uſed diuersly ; ſometime ſignifying a badge of a ſervingmans ſleeve, whereby he is diſcerned to belong to this or that Noble or Gentleman : ſometime an acknowledgement of a fine , or confeſſion of a thing done : as *cognoscens latra*. *Bracton lib. 3. tract. 2. c. a. 3, 20, 32. cognoscerre ad villanum*, *Idem, lib. 4. tract. 3. cap. 16.* As alſo to make cogniſance of taking a diſtreſſe : ſometime as an audience or hearing of a matter judicially , as to take cogniſance : ſometime a power or jurisdiction , as cogniſance of plee , is an ability to call a cauſe or plee out of another Court : which no man can doe but the King, except he can ſhew Charters for it, *Adamwood,*

part 1, of his Forest lawes, pag. 68.
See the new Termes of the Law, and the new book of Entries, *erbo Conuance.*

Cognatione, see Cofenage.

Cognisour, see Conisour.

Cognitionibus mittendis is a writ to a Justice , or other that hath power to take a fine, who having taken acknowledgement of a fine , deferreth to certifie it into the court of Common plees, commanding him to certifie it. *Reg. erig. 68, b.*

Coin (*cuueni vel cuna*) ſeemeth to come from the French (*coin*, id est, *Angulus*) which probably veriſieth the opinion of ſuch as doe hold the anciēntest ſort of Coyne to bee cornered, and not round. Of this Lawyers substantive (*cuna*) commeth the Lawyers verbe (*cunare*) i. to coyne. *Cramptons Justice of peace fol. 220.*

Coliander seed, or rather corian- der seed (*Semen coriandri*) is the ſeed of an hearbe ſo called, medicinable and wholesome for diuers good purpoſes : which ſee in *Gerards Herbal, L 2. cap. 379.* It is numbered among the drugges that be to be garbled. *an. 1 Jacob. cap. 19.*

Collaterall (*collateralis*) commeth of the Latine (*Lateralis*) id est , that which hangeth by the ſide, *Lateralia vistoria.* *n. de lega & fidelium, tertio l. 102.* ſeem to

signifie a budget or cap-case to hang by a saddle pommel. *Cold laterall* is used in the common law for that which comprehendeth, or is adhering of the side: as collateral assurance is that which is made over and beside the deed it selfe. For example, if a man covenant with another, and enter bond for the performance of his covenant, the bond is termed collateral assurance, because it is external, and without the nature and essence of the covenant. And *Cromp. Jurisd.* fol. 185. sayth, that to bee subject to the feeding of the Kings Deere is collateral to the spoyle within the Forest. In the like manner may we say, That the liberty to pitch boothes or standings for a Faire in another mans ground, is collateral to the ground. The privat woods of a common person within a Forest may not bee cut without the Kings licence. For it is a prerogative collateral to the foile. *Munroo's parte 1. of his Forrest laws*, p. 66.

Collateral warranty, see *Warranty*.

Collation of a benefice (*collatio beneficii*) signifieth properly the bestowing of a Benefice by the Bishop that hath it in his own gift, or patronage; and differeth from Institution in this, that Institution into a benefice is performed by the Bishop, at the

motion or presentation of another who is patron of the same, or hath the Patrons right for the time. *Extra de institutionibus*, & *De concessione prebendarum*, &c. And yet is collation used for presentation, anno 25 Edw. 3, stat. 6.

Collatione facta iuni post mortem alterius, &c. is a writ directed to the Justices of the Common Pleas, commanding them to direct their writ to a Bishop, for the admitting of a Clerke in the place of another presented by the King, that during the tuit betweene the King and the Bishops Clerke is deposed. For judgement once passed for the Kings Clerke, and he dying before he bee admitted, the King may be slow to his presentation upon another. *Registr. sig. fol. 51 b. d. 2. art. 3.*

Collatione heremitagii, is a writ whereby the King conferreth the keeping of an Ermitage upon a Clerke. *Register orig. fol. 303, 308.*

Colour (*color*) signifieth in the common law, a probable plee, but in truth false, and hath this end, to draw the triall of the cause from the Jury to the Judges. Of this see two apt examples in the Author of the new *Termes, verbo Colour*, who also referreth you to the Doctor and Student, fol. 158, &c. See *Brooke*, id. *Color in Assise, tres-*

trespas, &c. fol. 140.

Collusion (*collusio*) is in our common law, a deceitfull agreement or compact betweene two or more, for the one party to bring an action against the other to some evill purpose, as to defraud a third of his right, &c. See the new *Termes and Break it.* *Collusion*. See also one Case of Collusion in the *Register orig. fol. 179*.

Combat (*duellum*) is a French word, signifying as much as (*scer-tamen, decertatio, dimicatio, tijerimen, prelum, pugna*) but in our common law it is taken for a formal triall of a doubtful cause or quarrell, by the sword or Bastons of two Champions. Of this you may reade at large, both in divers Civilians, as *Paris de Puteo, de re militari & duello. Alcius de Duella, Notorum disputatio, feda- lium, cap. 42.* and others. As also in our common Lawyers of England, namely *Glanvile, l. 14. cap. 1. Bracton, l. 3. tract. 2. cap. 3. Britton, cap. 22. Horns Myrrhor of justices, l. 3. cap. des exceptions in sine proxime ante c. Juramentum duelli. Dyer, fo. 301. n. 41 & 42.* That this also was anciently the Law of the Lombards, before they invaded Italy (which was about the year of our Lord 571) appeareth by *Sigonius, in his history de regno Italiae l. 2. de Aricaldo, vige 5.* who there reporteth, that the said king

having put away his wife *Gundeborga*, upon a furmis of Adulterie with *Toto Duke of Etruria*, at the private suggestion of *Adalulphus*, a great man among the *Lombards*, and being charged by *Clotharius* the King of France his Ambassadours, of whose blood shee was, that hee had done her wrong: hee answered, that hee had done her no wrong. Whereupon *Ansealdus* one of the Ambassadours replied, That they would easilly beleeve him, if hee would suffer the truth to be tryed by combat, betweene some one of the Queenes friends, and her accuser, according to the custome of the *Lombards*. And the King yielding unto this, *Adalulphus* was vanquished by one *Pitto*; otherwise called *Charles*, set forth for the Queenes Champion, and shee restored to her former place and honour.

Comin seed, alias Cumin seed, (Semen cuminum) is a Seed, brought forth by an Herbe so called; which you may see described in *Gerards Herbal, lib. 2. cap. 416.* This is placed among the garbleable drugges, *anna r. Jacob. cap. 19.*

Comitatus commissi, is a writ or a Commission, whereby the Sheriff is authorized to take upon him the sway of the County, *Reg. orig. fol. 295 v. 1. 5. b. 1. Sand-Cokes Reports, l. 3. fol. 72. a.*

Comitatu & castro commissio, is a writ whereby the charge of a Countie, together with the keeping of a Castle, is committed to the Sheriff, *Reg. orig. fol. 295. a.*

Commandrie (preceptoria) was by some mens opinion, a mannor or chiefe mesuage, with which lands or tenements were occupied, belnging to the Priorie of S. Johns in Hierusalem, in England: and hee which had the Government of any such Manoy or house, was called the Commander, who had nothing to dispose of it, but to the use of the Priory, taking onely his sustenance thence, according to his degree, and was usually a brother of the same Priorie. Author of the new Termes of Law, *verbō, Commandrie.* By some other Bookes it appeareth, that the chief Prior of S. Johns, was a commander of a Nunnerie, and constituted the Piores of the said Nunnerie, who was under his obedience, and removeable at his will, notwithstanding that shee had Covent, and Common seale, and had her possessions severall, and was wont to lease the land for terme of yeeres, *Fulbeckys Parallelis, fol. 2. a.* Of these commandries also Petrus Gregorius lib. de beneficiis, cap. 11. num. 11. hath thele words: *Præceptoris dicta commenda sacerorum militum, vel ini ordinis hospitalii Sancti Joannis*

*Hierosolymitani, beneficia quidam secundum quid ecclesiastica dicuntur à Barbatis ad Clement. causam col. 51. de Elec̄tions. Tamen non propriè dicuntur ex genere communismus beneficiorum, eo quod persone conseruentes, & quibus conseruntur, non sunt laica vel ecclesiastice, sed tertit ordinis. Debiis beneficiis sit mentis cap. exhibita de privilegiis. in extravag. com. in cap. Dudum, de decimis. These in many places of our realme are tearmed by the name of Temples, because they sometime belonged to the Templers. Of these you reade, anno 26 H.8. cap. 2. & anno 32 ejusd. cap. 24. And of these the sayd Gregorius Tolosanus, l. 15, sui syntagmati, cap. 34. hath these words: *Mouimus superiori capite, crescente numero peregrinorum, juxta templum Hierosolymitanum Xenodochium edificatum, tit. Divi Johannis, quo exciperentur peregrini, quos exenobia capere non possent. Hujus ergo ministerio quoque viri pii nobiles se devoverunt, qui & peregrinos tutarentur, & a latronum seu Agarenorum incursu defenderent. Horum professio est votum solenne partitatis & abdicationis proprietorum, easilitatis & obediencie. Proinde propter primum votum nihil proprii habent, vel habere debent, sed accipiunt armoniam, quam diu vivunt, vel præceptorias (quas vocant Commandries) administrant, quam diu eas possident, & optione mutant,* vel*

vel ex magistri licentia permutant reddituri morientes que apud eos reperientur, societatis. Of these Confess in his Paraphrase ad sacerd. mat. part. 1. ca. 3. sayth thus: *Preceptorum Rhodiensium, cum non nisi fratribus Hierosolymitanis, atque ita personis ecclesiasticis conferatur, beneficiis ecclesiasticis amitterari merito debent.*

Commandement (*preceptum*) is used diversly in the Common law: sometime for the commandement of the King, when upon his meere motion, and from his owne mouth, he casteth any man into prison. *Statvs. pl. Coron. fol. 72.* or of the Justices. And this commandement of the Justices is either absolute or ordinary. Absolute, as when upon their owne authority, in their wisdome and discretion, they commit a man to prison for a punishment: ordinary is, when they commit one rather for safe custody than punishment. And a man committed upon an ordinary commandement is replevisable, *Pl. cor. fo. 73.* Commandement is again used for the offence of him that willett another man to transgresse the law, or to do any such thing as is contrary to the law, as Murther, Theft, or such like. *Braet. t. 3. tract. 2. ca. 19.* And this the Civilians cal(*mandatum*) *Angelus de maleficiis.*

Commen (communis) commeth

from the French (*communis*; i. quod ad omnes pertinet) and signifieth in our common law, that soyle or water whereof the use is common to this or that towne or Lordship; as Common of pasture, (*communis pasture*) *Braet. lib. 4. ca. 19 & 40.* Common of fishing, *communis pascariae. Idem l. 2. ca. 34.* Common of Turbary, i. of digging Turves (*communis turbarie*) *Idem lib. 4. cap. 41.* Common of estovers (*communis estoveriorum.*) *Kitchin, fo. 94.* Commen is divided into Commen in grosse *commen appendant, commen appertinent* and *commen per cens. de vicinage.* i. by reason of neighbourhood. Commen in grosse is a liberty to have Commen alone (that is,) without any land or tenement, in another mans land, to himselfe for life, or to him and his heires. And it is commonly passed by deed of grant or specialty, *Old nat. brev. fol. 31 & 37.* Commen appendant and Common appertinent being in a manner confounded; as appeareth by *Fitz. Nat. brev. fol. 180.* and be defined to be a liberty of Common, appertaining to, or depending of such or such a Free-hold. Onely *Kitchin, fol. 94,* seemeth to make this difference, that he which hath Commen appertinent, hath it without limitation of this or that kinde of Beasts. But that is controlled by *Dyer, fol. 70, b.*

nu. 19. Hee that hath *Common* appertinent hath it but for beasts commenable, as horses, oxen, kine and sheep, being accounted fittest for the Plowman: and not of Goats, Geese, and Hogs. Whereunto the Author of the new Termes of Law addeth another difference, which is, That Common appertinent may bee severed from the land wherunto it is appertinent, but not Common appendant. The originall of Common appendant, Sir Edw. Coke, l. 4. fol. 37. thus expresteth: Common appendant by the antient Law had beginning in this manner; when a Lord feoffed another in earable lands, to hold of him in Socage, (*id est, per servitium socia*) as all tenure in the beginning, according to Littleton, was: the Feoffee to maintaine the service of his plow, had Common in the wastes of his Lord, for his necessary beasts to gaine and compasse his land: and that for two causes; one, for that as then it was taken, it was (*tacite*) implied in the feoffement, by reason the Feoffee could not gaine or compasse his land without cattell, and cattell could not be sustained without pasture, and so by consequent, the feoffee had, as a thing necessary and incident, Common in the wastes and land of the Lord. And this appeareth by an-

cient booke, temp. Ed. 1. tit. Common 24. & 17 Ed. 2. tit. Common 23. & 20 Ed. 3. tit. Admesurement 8. & 18 Ed. 3. and by the rehearsall of the statute of Merton, c. 4. The second reason was for maintenance and advancement of tillage, which is much regarded and favoured in the Law. Thus far Sir Edward.

Common per causę de vicinage, is a liberty that the tenents of one Lord in one town, have to Common with the tenents of another Lord in another towne: which kinde of Common they that challenge, may not put their cattell into the Common of the other Towne, for then they be distreinable: but turning them into their owne fields, if they stray into the neighbors Common they must be suffered. See the Terms of Law. Common of pasture the Civilians call *Jus compascendi, cum sc. plures ex municipib[us] qui diversa predia possidebant, saltum communem, ut jus compascendi habentes mercarentur. I. penulor. si servit, veridetur.* It is also called *Jus compascuum*. Ibid.

Commendam (commenda) is a Benefice that being voyd, is commended to the charge and care of some sufficient Clerke, to bee supplied, untill it may be conveniently provided of a Pastor. And that this was the true originall of this practise, you may reade

reade at large in Duarenus, de sa-
crais ecclie ministeriis & beneficiis,
l.5. c.7. And whereas the glosse,
in verbo commendare, in c. Nemo
deinceps: de electione, in sexto, defi-
neth commendare esse ecclie custo-
diam alicui commissam: Iohannes.
Andre as thereupon sayth thus: hinc
definitione necessario hoc adjicenda
putem: in tempus gratiaru evidentia
necessitatis & utilitatis. Idq; docuit
textus in dicto capite. Nemo. Cor-
rasius in his paraphrase de sacerdo-
tiorum materia, parte 1. cap. 6. nn. 3.
& seq. thus describeth the matter:
In commendam conceditur benefici-
um, cum Romanus Pontifex Lega-
tus, aut Episcopus (Neq; enim infe-
rioribus, qui ex privilegio aut alio
iure spirituali conferunt, concessum
est, c. ann. omnes basilica, l.6.
quo (l.7.) ecclie vacantis custodi-
am alicui committit, administrato-
rem generalem ejus templi eum con-
stituens, ca. nemo, de electio in sex-
to. Commendare etiam aliud est ni-
hil, quam depanere. L. publicus. π. de-
positi. l. commendare. τ. decuerb, sag-
nis. Hoc autem, ad tempus sex men-
sium, & proevidenti necessitate, aut
utilitate ecclie lex permittit, (d.
c. a. Nero.) Quare commendatorius
qui ecclie vacanti & frustrum
ad tempus dundat custodiam ha-
bet, nec tenere beneficium, juxta ba-
bene in beneficio, aut canonicum ri-
culam conserbitur aut nec depositari-
us in deposita: wherof also: Pe-
trus Gregorius de beneficiis, cap. 10.

nn. 13, thus writeth: In hac qua-
ta divisione, potest addi tertium ge-
nus beneficij, quod citra prescriptio-
nem qualitatis à persona alterius
qualitatis quam beneficium exigat
naturā, possidetur, sed sine prejudi-
cio naturae beneficij, & per dispensa-
tionem, eo commendato olim ad tem-
pus certum certa persona, hodie, ut
plerunque quam diu commendatarii
vixerit. Vocant hoc beneficium
commendatum commendum: ut si
regulare beneficium à Summo Pon-
tifice conferatur, nomine commendat-
seculari. Nam ideo non mutatur be-
neficij natura, nec sit ideo seculare,
&c. And a little after, Interim an-
notabimus duplice de causa fieri
commendam ecclie, nempe vel in
utilitatem ecclie, vel commendatarii.
In primo commendata titulum non
dat beneficij commendatario, & di-
citur potius custodia que revocari
potest: quod repugnat naturae benefi-
cij, quod est perpetuum. In secundo
autem casu beneficium confertur in u-
tilitatem commendatarii commenda-
facta, quam possidere potest quidam diu
vixerit, &c. whom you may also
read, c.2,l.13.

Commissionary (commissarius) is
a title of ecclesiastical jurisdiction,
appertaining to such a one as
exerciseth spiritual jurisdiction
(at the least so far as his Com-
mission permitteh him) in pla-
tes of the Dioces so far distant
from the thicke City, as the
Chancellor cannot call the sub-
jects

jects to the Bishops principall Consistory, without their too great molestation. This Commissary is of the Canonists termed *commissarius, or officialis foraneus.* Lyndwoods provin. cap. 1. de *accusatio, verbo. Mandatum archiepiscopi, in glos.* and is ordained to this especiall end, that he supply the Bishops jurisdiction and office in the out-places of the Dioces, or else in such parishes as bee peculiars to the Bishop, and exempted from the jurisdiction of the Archdeacon. For where either by prescription or composition, there be Archdeacons that have jurisdiction within their archdeaconries, as in most places they have, there this commissarie is but superfluous, and most commonly doth rather vex and disturbe the Countrey for his lucre, than of conscience seeke to redresse the lives of offenders. And therefore the Bishop taking prestation mony of his Archdeacons yearly, *pro exteriori jurisdictione,* as it is ordinarily called, doth by super-onerating their circuit with a commissary, not onely wrong archdeacons, but the poorer sort of subjects much more, as common practise daily teacheth to their great woe.

Commission (commissio) is for the most part in the understanding of the Common law, as much as (*delegatio*) with the Civilians, (See

Brooke, titulo Commission) and is taken for the warrant or Letters Patents, that all men exercising jurisdiction either ordinary or extraordinary, have for their power to heare or determine any cause or action. Of these see divers in the table of the Register originall, *verbo Commissio.* Yet this word sometime is extended further than to matters of judgment: as the Commission of Purveyours or Takers, anno 1. I H. 4. cap. 28. But with this epitheton (*High*) it is most notoriously used for the honourable Commission Court, instituted and founded upon the statute, 1 Eliz. cap. 1. for the ordering and reformation of all offences in any thing appertaining to the jurisdiction ecclesiastical: but especially such as are of higher nature, or at the least require greater punishment, than ordinary jurisdiction can affoord. For the world being growne to that loosenesse, as not to esteem the censure of excommunicatiōn, necessity calleth for those censures of fines to the Prince and imprisonment, which doe affect men more neerly.

Commission of rebellion (commissio rebellionis) is otherwise called a writ of Rebellion (*Breve Rebellionis*) and it hath use, when a man after proclamation made by the Sheriff upon an order of

of the Chauncerie, or court of Starre-chamber, under penalty of his allegiance, to present himselfe to the Court by a certaine day, appeareth not. And this Commission is directed by way of command to certaine persons, to this end, that they, or three, two, or one of them, doe apprehend, or cause to be apprehended, the partie as a rebell and contemner of the Kings lawes, wheresoever they find him within the Kingdome, and bring him, or cause him to be brought to the Court, upon a day therein assigned. The true Copie of this Commission or Writ, you have in Cromptons divers jurisdictions. *Court de Starre Chamber*: as also in *West. tra&tat.* touching proceedings in Chancerie, *Sectio 24.*

Commissioner (commissionarius) is hee that hath commission, as Letters Patents, or other lawfull warrant, to execute any publike office: as Commissioners of the office of Fines and Licences. *West. parte 2. symbol. titulo Fines. sect. 106.* Commissioners in Eyre, *anno 3. Ed. 1. cap. 26.* with infinite such like.

Committee, is hee to whom the consideration or ordering of any matter is referred, either by some court, or consent of parties, to whom it belongeth. As in Parliament, a Bill being read, is

either consented unto, and passed, or denied, or neither of both, but referred to the consideration of some certaine men, appointed by the house, farther to examine it: who thereupon are called *Committees*. *Committee of the King, West. par. 2. symb. titulo Chancerie. sect. 144.* This word seemeth to bee something strangely used in *Kitchin, fo. 160.* where the widow of the Kings tenent being dead, is called the Committee of the King, that is, one committed by the ancient law of the land, to the Kings care and protection.

Common bench (bancus communis) is used some time for the court of Common plees, *anno 2. Ed. 3. ca. 11.* So called, as *M. Camden saith in his Britannia. pa. 113. quia communia placita inter subditos ex jure nostro, quod commune vocant, in hoc disceptantur;* that is, the Plees or Controversies tryed betweene Common persons.

Common fine (finis communis) of this, *Fleta hath these words: Quibus expeditis (speaking of the businesse finished by Justices in Eyre) consueverunt Justiciarii imponere villatis, juratoribus, lundredis, & toti comitatui concelamentum, & omnes separatim amerciare: quod videtur voluntarium, cum de perjurio & concelamento non fuerint convicti, sed potius dispensandum*

esset cum eis quod animas in statu posuerint pro pacis conservatione. li. 1. cap. 48. §. Quibus. And a little following, §. *Et provisum, he hath these words: Et provisum est, quod communes miserecordie vel fines comitatum amerciatorum in finibus inveniuntur Justiciariorum ante recessum ipsorum Justiciariorum per sacramenta militium, & aliorum proborum bonorum de commitatu eodem, affidentur super eos qui contribuere debent: unde particule Justiciariorum liberentur, ut cum aliis extractis suis ad Scaccarium liberare valent.* These last words of his have relation to the Statute, *Westm. pr. cap. 18.* which reade. See Fine.

Common Plees (*communia placita*) is the Kings Court now held in *Westminster Hall*, but in ancient time moveable, as appeareth by the Statute called *Magna charta, cap. 11.* as also *an. 2. Ed. 3. cap. 11.* and *Pupilla oculi, parte 5. cap. 22.* But *M. Gwin* in the Preface to his Readings saith, that untill the time that *Henry the third* granted the great Charter, there were but two Courts in all, called the Kings Courts: whereof one was the Exchequer, the other, the Kings Bench, which was then called (*Curia Domini regis*) and (*Aula regia*) because it followed the Court or King: and that upon the grant of that Char-

ter, the court of Common Plees was erected, and settled in one place certaine: viz. at *Westminster*. And because this Court was settled at *Westminster*, wherefoever the King lay: thereupon *M. Gwin, ubi supra*, saith, that after that, all the writs ran, *Quod sit coram Justiciariis meis apud Westmonasterium*: whereas before the party was commanded by them, to appear *coram me vel Justiciariis meis*, simply without addition of place, as he well observeth out of *Glanvile* and *Braeton*, the one writing in *Henry* the seconds time, before this Court was erected, the other in the latter end of *Henry* the thirds time, who erected this Court. All civill causes both reall and personall are, or were in former times, tryed in this court, according to the strict law of the Realme: and by *Fortescue, cap. 50.* it seemeth to have beene the onely Court for reall causes. The chiefe Judge thereof is called the Lord chiefe Justice of the Common Plees, accompanied with 3 or 4 Assistants or Associates, which are created by Letters Patents from the King, and (as it were) enstalled or placed upon the Bench, by the Lord Chanceler, and Lord chiefe Justice of the Court, as appeareth by *Fortescue, cap. 51.* who exprefseth all the circumstances of this admission. The rest of the Officers

cers belonging to this Court, are these: The *Custos brevium*, three Protonotaries, otherwise called Prenotaries, Chirographer, Filazers 14. Exigenters 4. Clerke of the Warrants, Clerke of the Juries, or *jurata writs*, Clerke of the Treasury, Clerk of the Kings Silver, Clerk of the Essoines, Clerk of the Out-lawries. Whose distinct functions look in their places. See *Common Bench.*

Common day in plee of land, an. 13. R. 2. stat. 1. cap. 17. signifieth an ordinary day in the Court as *Octavis Michaelis*, *quindena pasce*, &c. as you may see in the statute made, anno 51. H. 3. concerning generall dayes in the Bench.

Common house of Parliament, is used for the nether house: because the Commons of the realme, that is, the Knights of the Shires and Burgesses, possesse that house, *Crompton, jurisd. 9.*

Commautes, seemeth to be compounded of the Preposition (*con*) and (*mot. i. dictio, verbum*) and signifieth in Wales a part of a Shire, as an Hundred, *an. 28. H. 8. ca. 3.* It is written *Commathes*. *an. 4. H. 4. ca. 17.* and is used for a gathering made upon the people (as it seemeth) of this or that Hundred, by Welsh Minstrels.

Common law, (*commonis lex*) hath three divers significations, which see in the Author of new

termes of law, *verb. Common law.*

Communi custodia, is a writ that lyeth for that Lord, whose tenant holding by Knights service, dyeth, and leaveth his eldest Son under age, against a stranger that entreth the land, and obtaineth the ward of the body. It may seeme to take the name from the common custome or right in this case: which is, that the Lord have the wardship of his tenant, untill his full age, or because it is common for the recovery both of land and tenant, as appeareth by the forme thereof. *Old. nat. br. fol. 89.* See also the *Register orig. fol. 161. a. 7.*

Communi placito non tenendo in scaccario, is a writ directed to the Treasurer and Barons of the Exchequer, forbidding them to hold Plee betweene two common persons in that Court, neither of them belonging toward the said Court, *Register orig. fol. 187. b.*

Companion of the Garter, is one of the Knights of that most noble and honourable order. *an. 24. H. 8. ca. 13.* See *Garter.*

Compromis (*compromissum*) is a mutuall promise of two or more parties at difference, to refrete the ending of their Controversies, to the arbitriment and equitie of one or more Arbitrators. *West. defineth it thus; parte 2. Symbol. titulo Compromise sect.*

pri. A compromise or submission (*arbitrium, compromissum, submissio*) is the facultie or power of pronouncing sentence betweene persons at controversie, given to Arbitrators by the parties mutuall private consent, without publike autoritie.

Computo, is a writ so called of the effect : because it compelleth a Bailiffe, Chamberlaine, or Receiver to yeeld his account, *Old nat. br. fo. 58.* It is founded upon the statute of *Westm. 2. c. 2. anno 13. Ed. 1.* which for your better understanding you may reade. And it lyeth also for executours of executours, *anno 15. Ed. 3. statut. de provis. viettuall, cap. 5.* Thirdly, against the garden in Socage for waste made in the minority of the heire, *Marlb. ca. 17.* And see farther in what other cases it lyeth, *Register orig. fol. 135. Old nat. br. ubi supra. & Fitzb. nat. br. fol. 116.*

Concealers, be such as finde out cōcealed lands, that is, such lands as are privily kept from the King by common persons, having nothing to shew for them, *anno 39. Eliz. cap. 22.* They be so called, à *concelando, as mons a movenda, per antisbrasim.*

Concord (*concordia*) is in the common law, by a peculiar signification, defined to be the verie agreement betweene parties, that intend the levying of a Fine

of lands one to the other, who and in what manner the land shal passe. For in the forme thereof many things are to be considered, *West. parte 2. Symbol. titulo. Fines and concords, Sect. 30.* whom reade at large. Concord is also an agreement made upon any trespass committed between two or more : and is divided into a Concord executory, and a Concord executed. See *Plowden, casu Reniger, & Fogassa. fo. 5. & 6.* where it appeareth by some opinion, that the one bindeth not as being imperfect : the other absolute, and tyeth the parties : and yet by some other opinion in the same case, it is affirmed that agreements executory bee perfect, and doe no lesse bind, then agreements executed, *fol. 8. b.*

Concubinage (*concubinatus*) is an exception against her, that sueth for her Dower, whereby it is alleaged, that shee was not a wife lawfully married to the partie, in whose lands shee seeketh to be endowed, but his concubine, *Britton, ca. 107. Bract. li. 4. tract. 6. cap. 8.*

Condition (*conditio*) is a rate, mannor, or law, annexed to mens acts, stayng or suspending the same, and making them uncer- taine, whether they shall take ef- fect or no, *West. parte 1. symb. li. 2. Sect. 156.* In a lease there may be

be two sorts of conditions : condition collaterall, or condition annexed to the rent. Sir Edward Coke, lib. 3. *Pennants case*, fol. 64. Collaterall condition is that, which is annexed to any collaterall act : as that the Leassee shall not goe to *Rome*, ib. fol. 65. Condition is also divided, into condition in deed or fact, and condition in law : which otherwise may be termed, condition expressed, and condition implied. *Perkins, Conditions*, 722. These, and other like divisions of conditions, you may reade in the Author of the new Termes of law, *verbo. Condition.* And in *Littleton*, lib. 3. cap. 5.

Conders, may seeme to proceed from the French (*conduire*. i. *deducere, gubernare*) they be such as stand upon high places neare the Sea-coast, at the time of Herring fishing, to make signes with Bougheſ, &c. in their hand unto the Fishers, which way the shole of Herrings passeſt. For that may better appeare to ſuch as stand upon ſome high cliffe on the ſhore, by a kind of bleue colour, that the ſaid Fish cauſeth in the water, then to thoſe that be in the Ships. These be otherwife called huers, by likelihoode of the French (*buyer*. i. *exclamare*) and balkers : as appeareth by the ſtatute, anno 1. Jacob. cap. 23.

Cone & key. Bracton, lib. 2.

cap. 37. num. 3. *Looke Cores and Key.*

Confirmation (confirmatio) is a ſtrengthening of an eſtate formerly had, and yet voidable, though not preſently voide. For example ; a Bishop granteth his Chancelerie by Patent, for the terme of the Patenteſſe his life : this is no void grant, but voidable by the Bishops death, except it be ſtrengthened by the confirmation of the deane and Chapter. See more of this, in *West. parte prim. symb. lib. 2. ſect. 500.* and *Fitzb. nat. br. fol. 169. E. 226. H. 271. D. 163. G. and Littleton*, lib. 3. cap. 9.

Confiscate (confiscatus) may be ſaid to come either from the Latinne (*confiscare*) or the French (*confisquer*. i. *in publicum addicere*.) All theſe words are drawne from (*fiscus*) which originally ſignifieth a Hamper, Pannier, Basket, or Freile: but Metonymically the Emperours Treasure: because it was anciellly kept in ſuch Hampers, &c. And though our King keepe not his Treasure in ſuch things: yet as the Romans ſaid, that ſuch goods as were forfeited to the Emperours Treafurie for any offence, were *bona confiscaſa*: ſo doe wee tho' e that are forfeited to our Kings Exchequer. See more of theſe goods confiscate, in *Stawnſ. pl. cor. lib. 3. cap. 24.*

Conge d'estire (venia elegendi)) is very French, and signifieth in our common law, the Kings Permission royall, to a Deane and Chapter in time of vacation, to chuse a Bishop: or to an Abbey or Priorie of his owne foundation, to chuse their Abbot or Prior, *Fitzb. nat. br. fol. 169. B. 170. B. C. &c.* Touching this matter, *M. Gwin* in the Preface to his Readings saith, that the King of England, as soveraigne Patron of all Arch-bishoprickes, Bishoprickes, and other Ecclesiasticall Benefices, had of ancient time, free appoinement of all Ecclesiasticall Dignities, whensoever they chanced to be voide: investing them first (*per baculum & annulam*) and afterward by his Letters Patents: and that in proesse of time he made the Election over to others, under certaine formes and conditions: as namely, that they should at every vacation before they chuse, demand of the King (*congè d'estire*) that is, License to proceed to Election, and then after the Election, to crave his royall assent, &c. And farther he affirmeth by good prooife out of common Law Bookes, that King John was the first that granted this, and that it was afterward confirmed by *Westm. pri. ca. 1.* which statute was made, *anno 3. Ed. pri.* And againe by the statute,

(*Articuli cleri*) *ca. 2.* which was ordained, *anno 25. Ed. 3. statuto tertio.*

Congeable, commeth of the French) *conge. i. venia*) It signifieth in our common law, as much as lawfull or lawfully done; as the entry of the Disseisee is Congeable, *Littleton, fol. 91. in meo.*

Conisance. See Cognizance.

Conizour, alias cognizour (recognitor) commeth of the French (*cognosstre. i. cognoscere, cernere*) and is used in the passing of Fines for him that doth acknowledg the Fine; and the Conizee is he, to whom it is acknowledged, *West. parte 1. symbol. l. 2. sect. 49. & parte 2. titulo. Fines sectio. 114.* See *Recognizour.*

Conjuration (conjuratio) is the very French word drawne from the Latine; which, as it is compounded of (*con & juro*) so it signifieth, a compact or plot, made by men combining themselves together by oath or promise, to doe some publicke harme. But in our common law, it is especially used for such as have Personall conference with the devill or evill Spirit, to know any secret, or to effect any purpose, *anno 5. Elizab. cap. 16.* And the difference that I have observed (how truly, let those judge that be better skilled in these matters) betweene conjuration and witchcraft, is because the

the one seemeth, by prayers and invocation of Gods powerfull names, to compell the devill, to sa, or doe what he commandeth him : the other dealeth rather by a friendlly and voluntarie conference or agreement betweene him or her and the devill or familiar, to have her or his desires and turnes served in lieu of bloud, or other gift offered unto him, especially of his or her soule. And both these differ from inchauntments or sorceries, because they are personall conferences with the Devill, as is said : but these are but medicines and ceremoniall formes of words (called commonly charmes) without apparition.

Consanguineo, is a writ, for the which see *Avo*: and see the *Register orig. De avo, proavo, & consanguineo, fo. 226.a.*

Conservator of the truce and safe conduicts (*conservator inducium & salvorum regis conductum*) was an officer appointed in every port of the Sea, under the Kings letters patents, and had 40. pound for his yearly stipend, at the least. His charge was to enquire of all offences done against the Kings truce and safe conduicts, upon the maine Sea out of the Countries, and out of the Franchises of the Cinque ports of the King, as the Admirals of Custome were wont

and such other things as are declared, anno 2. H. 5. cap. 6. Touching this matter you may reade another statute. anno 4. H. 5. cap. 7.

Conservatour of the Peace (*conservator vel custos pacis*) is he that hath an especiall charge by vertue of his office, to see the Kings peace kept. Which peace learned *M. Lambert* defineth, in effect, to be a with-holding or abstinence from that injurious force and violence, which boisterous and unruly persons are in their natures prone to use toward others, were they not restrained by lawes and feare of punishment. Of these conservators he farther saith thus: that before the time of King Edward the third, who first erected Justices of peace, there were sondrie persons, that by the common lawe had interest in keeping of the peace. Of those some had that charge as incident to their offices, which they did beare, and so included within the same, that they were never the lesse called by the name of their office onely: some others had it simply as of it selfe, and were thereof named *custodes pacis*, wardens or conservators of the peace. The former and latter sort hee againe subdivideth. Which read in his *circumscriptio. li. i. cap. 3.*

Consideration, (*consideratio*) is that with us, which the Grecians called *εὐαλλαγμά*: that is, the materiall cause of a contract, without the which, no contract bindeth. This consideration is either expressed, as if a man bargaine to give 20 Shillings for a Horse: or else implied, as when the law it selfe inforceth a consideration; as if a man come into a common Inne, and there staying sometime, taking both meat and lodging, or either for himselfe and his Horse: the law presumeth, that he intendeth to pay for both, though nothing be farther covenanted betweene him and his Host: and therefore if he discharge not the house, the Host may stay his Horse, *Fulb. parel. tract. Contracts. fol. 6. a. b.*

Consistorie (*consistorium*) is a word borrowed of the Italians, or rather Lombards, signifying as much as (*pratorium*) or *tribunal. vocab. utriusq; jur.* It is used for the place of Justice in the Court Christian.

Convocation house (*domus convocationis*) is the house, wherein the whole Clergie is assembled, for consultation upon matters Ecclesiasticall in time of Parliament. And as the house of Parliament, so this consisteth of two distinct Houses: one called the higher convocation house, where the Archbishops and Bishops sit

severally by themselves: the other, the lower Convocation house, where all the rest of the Clergie are bestowed. See *Prolocutor.*

Conusance. See *Cognisance.*

Conusour. See *Cognizour.*

Consolidation (*consolidatio*) is used for the combining, and uniting of two Benefices in one. *Broke titulo. Union.* This word is taken from the Civill Law, where it signifieth properly an uniting of the possession, occupation, or profit with the propertie. For example, if a man have by Legacie *nsum fructum fundi*, and afterward buy the propertie or fee-simple (as wee call it) of the heire, *boc casu consolidatio fieri dicitur.* §. 3. *De usufructu in Institut.* See *Union*, and *Unitie of possession.*

Conspiracie (*conspiratio*) though both in Latine and French, it be used for an agreement of men, to doe any thing, either good or bad: yet in our Lawyers booke, it is alway taken in the evill part. It is defined, *anno 34. Ed. pri. stat. 2.* to be an agreement of such as doe confeder or bind themselves by oath, covenant, or other alliance, that every of them shall beare and ayde the other, falsly and maliciously to indite, or falsly to move or maintain Plees, and also such as cause children within age, to appeale men of

of felonie, whereby they are imprisoned, and sore grieved : and such as retaine men in the Countries with liveries or feese , to maintaine their malicious enterprises. And this extendeth as well to the takers, as to the givers. And Stewards and Bayliffes of great Lords, which by their segnorie, office, or power, undertake to beare or maintaine quarrels, plees, or debates that concerne other parties,then such as touch the estate of their Lords, or themselves, anno 4. Ed. 3. cap. 11. an. 3. H. 7. ca. 13. and of this see more, ann. 1. H. 5. c. 3. & an. 18. H. 6. c. 12. as also in the new booke of Entries. ver. *Conspiracy*.

Conspiracy, in the places before mentioned, is taken more generally, and is confounded with maintenance and champerty. But in a more speciall signification, it is taken for a confederacie of two at the least, falsely to endite one, or to procure one to be endited of felony. And the punishment of conspiracy, upon an enditement of felony, at the Kings iuit, is that the partie attainted, leele his franke lawe , to the intent that hee be not empaneled upon Juries or Assises, or such like employments, for the testifying of truth. And if hee have to doe in the Kings court, that hee make his Attorney : and that his

lands, goods, and chatels be seised into the Kings hands, his lands estreaped (if hee finde no better favour) his trees raced, and his body committed to prison. 27. lib. assis. 59. Cromptons *Justice of Peace*, fol. 156. b. This is called villanous judgement or punishment. See *Villanous Judgement*. But if the partie grieved sue upon the Writ of Conspiracie, then see. *Fitzb. nat. br. f. 114. D. 115. I.* Conspiracie may be also in cases of lesse weight. *Idem fol. 116. A. &c.* See *Franke Law*.

Conspiracy, is a Writ that lyeth against conspiratours. *Fitz. nat. br. fo. 114. d. Cromptons juris. fo. 209.* See also the *Regist. fo. 134.*

Constable (*constabularius vel constabulis*) is a Saxon word, compounded of (*cuning* or *cyng*) and (*staple*) which doe signifie the stay and hold of the King. *Lamb. duties of Constables, ms. 4.* But I have heard it made heretofore of these two wordes, (*comes stabuli*) which seemeth to mee the more probable, because we have this Officer from *France* as most others, and not from the Saxons. And *Tilius* in his commentaries (*de rebus Gallicis*) li. 2. ca. de *conistabili*, hath the same etymologie , giving the reason thereof, (*quia praest stabulo. i. equili regis*) which office is auncient heire in England, and mentioned by *Bracton*, seeming

to answer him that was called (*tribunus celerum*) under the first Kings of Rome, and (*Magister equitum*) afterward. The Germans that inhabite the syde of the river Rhene, note him by this title *die constofler*) and in counterfeit Latine (*constoflerus*) and in older time (*constafolarius*) that the Romans were wont to tearme *assessorum judicij*. And (as *Spiegelius* in his lexicon noteth, derive the word) *a stafolo comitis, i. gradu Judicis fiscalis.* For *stafel* in their language (as hee saith) signifieth a gree or steppe of a paire of staires. And thereupon (*stafelstein*) being a word used in their very ancient writings, signifieth as much as *Praetorium*. But a man many times may shew in this kinde more curiositie then discretion: as perhaps some will judge mee heere to have done. And therefore enoughe of this. This word is diversly used in our common law: first for the constable of England, who is also called Marshall. *Stawn. pl. cor. fol. 65.* of whose great dignitie and authoritie a man may finde many arguments and signes both in the statutes and chronicles of this Realme. His sway consisteth in the care of the common peace of the land, in deeds of armes, and matters of wars. *Lamb. ubi supra* with whom agreeth the statut.

anno 13. R. 2. ca. 2. statut. 1. Smith de Repub. Anglo. li. 2. ca. 25. Of this officer or Magistrate *M. Gwin* in the preface to his reading saith to this effect: The court of the Constable and Marshall determineth contracts touching deeds of armes out of the Realme, and handleth things concerning wars within the Realme, as combats, blasons of armory, &c. But it may not deale with battell in appeales, nor generally with any other thing that may bee tryed by the lawe of the Land. And reade *Fortescue ca. 32.* This office was belonging heeretofore to the Lords of certain manors, *jure sambi*: and why it is discontinued, see *Dyer fol. 258. m. 39.* Out of this high magistracie (saith *M. Lamberd*) were drawne these lower constables, which wee call constables of hundreds and franchises, and first ordained by the Statute of *Winchester*, *anno 13. Ed. 1.* which appointeth for the conservation of the peace, and view of armour, two constables in every hundred and franchise, which in latine are called *constabularii capitales*. And these be now a dayes called high constables: because continuance of time, and increase both of people and offences, hath againe under these made others in every towne called petit constables, in latine (*subconstabularios*) which are

are of like nature, but of inferior authoritie to the other, as you may read at large in that learned mans Treatise before named. Of these also read S. Thomas Smith lib. 2. cap. 22. Beside these there bee officers of particular places called by this name ; as constable of the Tower. *Stawnſ. pl. cor. fol. 152.* & anno 1. H. 4. cap. 13. *Stowſ annals pa. 812. jurisdict. fol. 132.* constable of the Exchequer. anno 51. H. 3. statute 5. Constable of Dover Castle. *Camdeni Britan. pa. 239.* *Fitzb. nat. br. fo. 240.* otherwise called castellane. *West. i. cap. 7.* anno 3. Ed. 1. But these be castellani properly, as Master Lamberd noteth, though conjoyned in name with the others. See the Statute anno 32. H. 8. ca. 38. *M. Manwood parte prima. cap. 13.* of his forest lawes maketh mention of a constable of the forest.

Consuetudinibus & servitiis, is a writ of right close, which lyeth against the tenant, that deforceth his Lord of the rent or service due unto him. Of this see more at large the *Old nat. br. fol. 77.* *Fitzb. codem. fol. 151.* and the *Register orig. fol. 159.*

Consultation, (*consultatio*) is a Writ whereby a cause, being formerly removed by prohibition from the ecclesiastical court, or court Christian, to the Kings Court, is returned thither a-

gaine. For the Judges of the Kings court, if upon comparing the libell with the suggestion of the party, they do find the suggestion false or not proved, and therefore the cause to be wrongfully called from the Court Christian ; then upon this consultation or deliberation, they decree it to be returned againe, whereupon the writ in this case obtained, is called a consultation. Of this you may reade the *Register orig. fol. 44, 45.* &c. usq; fol. 58. *Old nat. br. fol. 32.* & *Fitz. codem fol. 50.*

Contenement, (*contenementum*) seemeth to bee the free hould land, which lyeth to a mans tenement or dwelling house, that is in his owne occupation. For in *Magna charta. cap. 14.* you have these words : A free man shall not be amerced for a small fault, but after the quantitie of the fault : and for a great fault, after the manner thereof, saving to him his contenement or free hold. And a Merchant likewise shall be amerced saving to him his merchandies : and any other villaine then owers, shall be amerced saving his waynage, if he take him to our mercy. And *Bracton. lib. 3. tracta. 2. cap. 1. iii.* 3. hath these words : *& sciendum, quod miles & liber homo non amerciabitur, nisi secundum modum delicti, secundum quod delictum*

*fuit magnum vel parvum, & salvo
contenemento suo : mercator vero
non nisi salva merchandiza sua, &
villanus nisi salvo viaggio suo :*
which mercy seemeth to have
beene learned from the civile
lawe : whereby (*executio non pos-
test fieri in boves, aratra, aliave
instrumenta rusticorum.* l. *executo-
res & Authen.* *Agricultores.* Co:
gue res pign. obliga. nec in stipendia,
arma & equos militum. l. *stipendia.*
Co. de executio. rei judica. & ibi
doctores nec in libros scholarium.
glos. in L. *Nepos Proculo.* verbo.
dignitate. & de verbo. significatio. Quae
tamen rusticorum, militum & scho-
larium privilegia circa executionem
vera esse, & catenus obtinere intel-
ligenda sunt, quatenus alia bona
habent. *Joban Emericus in processu
judicario: esp. de Executione sen-
ten. 79. num. 11.*

Continuance, seemeth to bee
used in the common law, as *pro-
rogatio* is in the civile lawe. For
example: Continuance untill the
next assise. *Fitz. nat. br. fol. 154,*
F. and 244. D. in both which
places it is said, that if a record
in the treasurie bee alledged by
the one partie, and denied by
the other: a (*certiorari*) shall be
sued to the Treasurer, and the
chamberlaine of the Exchequer:
who, if they certifie not in the
Chauncerie, that such a record is
there, or that it is likely to
be in the Tower: the King

shall send to the Justices repea-
ting the (*certificate*) and will them
to continue the assise. In this
signification it is likewise used
by Kitchin. fol. 202. & 199. and
also anno 11. H. 6. cap. 4.

Continuall claime (*continuum
clumenum*) is a claime made from
time to time. Within every yeare
and day, to Land or other thing,
which in some respect wee can-
not attaine without daunger.
For example, if I be disseised of
land, into which, though I have
right unto it, dare not enter for
feare of beating: it behooveth
me to hold on my right of entry
to the best opportunity of me &
mine heire, by approaching as
neere it I can, once every yeare,
as long as I live: and so I save
the right of entry to mine heire.

Termes of Law. Againe, if I have
a slave or villeine broken from
me, and remaining any where
within the auncient demeane of
the King, being in the hands of
the King, I cannot maintaine the
writ *de nativo habendo*, as long as
hee continueth there: but if I
claime him within the yeare and
the day, and so continue my
claime, until I can find him with-
in that compasse: I may lawfully
lay hold of him as mine owne.
Fitz. nat. br. fol. 79. See more in
Littleton, verbo. *Continuall claime.*
And the new Booke of Entries.
Ibid. and *Fleta. lib. 6. cap. 53.*

Contractus (*contractus*) is a covenant or agreement with a lawfull consideration or cause. *West. parte prim. symbol. lib. 1. Sect. 1 c. and lib. 19. n. de verbo.* Significa. with other places, it is thus defined: *Contractus est negotiū inter duos plures data opera gestum, ut vel uterque invicem; vel alterutre obligetur.* Who so will throughly examineth the difference betweene this and (*pactum*) and such other words something like in signification: let him search the Civilians, and hee shall find worke both pleasant and profitable, and well fitting the common law also.

Contra formam collationis, is a writ that lieth against an Abbot, or his successor, for him, (or his heire) that hath given land to an Abbey, to certaine good uses, and findeth that the Abbot or his successor hath made a Feoffment thereof, with the assent of the tenants, to the disherison of the house and Church. This is founded upon the statute of *West. 2. cap. 41.* And of this see the *Regist. orig. fol. 238.* and *Fitzb. nat. br. fol. 210.* And note that the Author of the Termes of law saith, that this is not brought against the tenant or alienee.

Contra formam feoffamenti, is a writ that lyeth for the heire of a tenent infeoffed of certaine lands or tenements, by charter of Feof-

ment of a Lord, to make certaine services and suits to his Court, and is afterward distreined for more, than is contained in the said charter, *Reg. orig. fo. 176. Old nat. br. fol. 162.* and the Termes of the Law.

Contributio facienda, is a writ that lieth in case where more are bound to one thing, and one is put to the whole burthen, *Fit. nat. br. fol. 162.* bringeth these examples: If tenents in common or joyned, hold a Mill (*pro indiviso*) & equally take the profits therof, the Mill falling to decay, and one, or more of them, refusing to contribute toward the reparation thereof, the rest shall have this writ to compell them. And if there be 3. coparceners of land, that owe suite to the Lords Court, and the eldest perform the whole: then may she have this writ to compell the other two to a contribution of the charge, or to one of them, if one only refuse. The *Old nat. br.* frameth this writ to a case, where one only suit is required for land, & that land being sold to divers, suit is required of them all, or some of them by distresse, as entirely, as if all were still in one, *fo. 103.* See the *Reg. orig. fol. 176.*

Controller (*contrarotulator*) commeth of the French (*contrerouleur*. i. *antigraphus, grācē ἀντίγραφος*) which in Rome was used for him, *cui id muneris injunctum erat,*

*ut obseraret pecuniam, quam in usum Principis vel civitatis collegerunt exactores. Budæus in annotatio. p. 52. in p. 52. tit. De officio quæstoris. In England wee have divers officers of this name: as Controller of the Kings house, pl. cor. fol. 52. & anno 6. H. 4. cap. 3. Controller of the Navie, anno 35. Elizabeth, cap. 4. Controller of the Custome, Cromptons Jurisd. fol. 105. Controller of Calis, anno 21. Rich. 2. cap. 18. Controller of the Mint, anno 2. H. 6. cap. 12. Controller of the Hanaper, (*Contrarotulator Hamperii*) which is an officer in the Chancerie attending on the Lord Chancellor, or Keeper daily in the Terme time, and dayes appointed for sealing. His office is to take all things sealed from the Clerke of the Hanaper, inclosed in bags of Lether, as is mentioned in the said Clerkes office, and opening the bags, to note the just number, and especiall effect of all things so received, and to enter the same into a speciall Booke, with all the duties appertaining to his Majestie, and other officers for the same, and so chargeth the Clerke of the Hanaper with the same. Controller of the Pipe, (*contrarotulator Pipe*) who is an officer of the Exchequer that writeth out summons twice euerie yeare to the Sheriffes, to levie the Fermes and debts of the*

Pipe, and also keepeth a contrarolment of the Pipe. *Controller of the Pell*, is also an officer of the Exchequer, of which sort there be two, viz. the two Chamberlaines Clerkes, that do, or should keepe a controlment of the Pell of receites and goings out. And in one word, this officer was originally one, that tooke notes of any other officers accounts or receipts, to the intent to discover him, if he dealt amisse, and was ordained for the Princes better securitie, howsoever the name fithence may be in some things otherwise applyed. To the prooфе whereof, you may take these few words out of *Fleta*, l. 1. cap. 18. *in prim. Qui cum fuerint ad hoc vocati & Electi*, (speaking of the Coroners) *attachari præcipiant appella: qui & capitula coronæ in comitatu præsentent: contra quos vicecomes loci habeant contrarotulum, tam de appellis & inquisitionibus, quam aliis officiis illud tangentibus, &c.* Which (*contrarollum*) is nothing else, but a parallel of the same quality and contents with the *contrarotulari*, or originall. This also appeareth by anno 12. Ed. 3. cap. 3. And this signification it seemeth to have also in *France*. For there the King hath his reeivers of Tailes in every Province, and Controllers, *qui ad majorcm fidem susceptoribus accedunt, describuntq;* in

in tubulis qua colliguntur. Gregorii syntag. li. 3. c. 6. nn. 6.

Covenante, is a writ, that lyeth for the breach of any covenant in writing, *Register orig. fol. 185. Old nat. br. fol. 101. Fitzh. calleth a writ of covenant, nat. br. fol. 145.* who divideth covenants into personall and reall, making a sufficient discourse of them both: as also, how this writ lyeth for both.

Convict, (*comictus*) is he that is found guiltie of an offence by the verdict of the Jurie, *Statu. pl. cor. fo. 186.* yet *Master Crompton* out of Judge Dyers Commentaries 275. saith, that conviction is, either when a man is out-lawed, or appeareth and confesseth, or else is found guilty by the Inquest, *Crompi. Just. of peace, fo. 9. a.* Conviction and attainer are often confounded, *li. 4. fo. 46. a. b.* See *Attaint.*

Coparceners, (*participes*) be otherwise called Parceners: and in common law, are such as have equall portion in the Inheritance of their Ancestour; and, as *Littleton* in the beginning of his third Booke saith, Parceners be either by law, or by custome. Parceners by law, are the issue Female, which (no heire Male being) come in equalitie to the lands of their Ancestours, *Bract. lib. 2. cap. 30.* Parceners by custome, are those that by custome

of the country, challenge equall part in such lands: as in Kent by the custome called (*Gavel Kind.*) This is called *Adequatio* among the Feudists. *Hot. in verbis fenda. verbo. Adequatio.* And among the Civilians it is termed *familia exercienda judicium, quod inter coheredes ideo redditur, ut & hereditas dividatur, & quod alterum alteri dare facere oportebit, praestetur, Hotoman.* Of these two you may see *Littleton* at large in the first and second chapters of his third Booke, and *Briston, cap. 27.* intituled, *De heritage divisibile.* The Crowne of England is not subject to Coparcinory, *anno 25. H.8. ca. 22.*

Copie, (*copia*) commeth from the French (*copie.* i. *le double de quelque escription, latine descriptio, grec. τύπασθαι,*) and signifieth in our common language, the example of an originall writing; as the copie of a Charter, the copie of a Court roll.

Copia libelli deliberanda, is a writ that lyeth in case where a man cannot get the copie of a Libell at the hands of the Judge Ecclesiasticall, *Reg. orig. fo. 51.*

Copie-hold, (*tenura per copiam rotuli curie*) is a tenure, for the which the tenent hath nothing to shew, but the copie of the Rolls made by the Steward of his Lords court. For the Steward, as hee inrolleth, and maketh Re-

membrances of all other things done in the Lord's court: so hee doth also of such tenents, as be admitted in the Court, to any parcell of land or tenement belonging to the Manor: and the transcript of this, is called the Court roule: the copie whereof the tenant taketh from him, and keepeh as his onely Evidence, Coke, li. 4. fol. 25. b. This tenure is called a Base tenure, because it holdeth at the will of the Lord. Kitchin, fol. 80. cap. Copy-holds. Fitzb. nat. br. fol. 12. B. C. who there saith, that it was wont to bee called tenure in villenage, and that this Copie-hold is but a new name. Yet is it not simply at the will of the Lord, but according to the custome of the Manor. So that if a Copie-holder breake not the custome of the Manor, and thereby forfeit his tenure, he seemeth not so much to stand at the Lords courtesie for his right, that he may be displaceh hand over head at his pleasure. These customes of Manor be infinite, varying in one point or other, almost in every severall Manor. First, some Copy hold is fineable, and some certaine: that which is fineable, the Lord rateth at what fine or income he pleafeth, when the tenant is admitted unto it: that which is certaine, is a kind of inheritance, and called in many places

Custumarie: because the tenant dying, and the hold being void, the next of the bloud paying the custumarie fine, as two Shillings for an Acre or such like, may not bee denyed his admission. Secondly, some Copy-holders have by custome, the wood growing upon their owne land, which by Law they could not have. Kitchin ubi supra. Thirdly, Copy-holders, some be such as hold by the verge in ancient Demesn: and although they hold by Copy, yet are they in account a kinde of Free-holder. For if such a one commit Felonie, the King hath (annum, diem, & vassum) as in case of Free-hold. Some other hold by common tenure, called meere Copy hold: and they committing Felonie, their land escheateth to the Lord of the Manor forthwith. Kitchin, fol. 81. chap. Tenents per verge in ancient Demesn. What ancient Demesn is, see in the right place. See Tenant by Copie of Court rolle. This is the land that in the Saxons time, was called Folk-land. Lamberd, explicat. of Saxon words, verbo, Terra ex scripto, West. parte prim. symb. li. 2. Sect. 646. defineth a Copie-holder thus: Tenant by copie of Court rolle, is he which is admitted tenant of any lands or tenements within a Manor, that time out of the memory of man, by

by use and custome of the said manor, have beene demisable, and demised to such, as will take the same in fee, in fee-taile, for life, yeares, or at will, according to the custome of the said manor, by copy of courtrolle of the same manor, where you may reade more of these things.

Coraage (*coraagium*) is a kinde of imposition extraordinary, and growing upon some unusuall occasion, and it seemeth to be of certaine measures of corne. For *cornus tritici*, is a certaine measure of corne. *Braclton libro 2. ca. 16. m. 6.* who in the same chapter, m. 8. hath of this matter these words: *Sunt etiam quædam communes præstatiōnes, quæ servitiis non dicuntur, nec de consuetudine veniunt, nisi eis necessitas interveherit, vel cùm rex venerit: sicut sunt bidagia, coraagia, & carvagia, & aliae plura de necessitate & ex consilio communis rotius regni introducta & qua ad dominum feudi non perirent, & de quibus nullus tenetur tenentem suum acquietare, nisi se ad hoc specialiter obligaverit in charta sua, &c.*

Cordiner, commeth of the French (*Cordovannier. i. futor calcearius*) a shoo-maker, and is so used in divers Statutes, as anno 3. H. 8. cap. 10. & anno 5. ejusdem ca. 7. and others.

Cornage (*cornagium*) commeth

of the French (*cor. i. cornu*) and in our common law, signifieth a kind of grand seargancy, the service of which tenure, is to blow a horne, when any invasion of the Northerne enemy is perceived. And by this many men hold their land northward, about the wall, commonly called the Picts wall. *Camden Britan. pag. 609.* hence commeth the word (*cornuarē*) to blow a horne. *pupil oculi, parte 5. ca. 22. in charta de Foresta.* This service seemeth to have proceeded from the Romans. For I find (*cornicularios*) mentioned in the civile law, viz. *li. 1. Cod. de officio diverso. Iud. 48. legē 3. & lib. 12. titulo de apparitoribus praefectorum prætorio, 53. lege 1. & 3.* where *Luca de Penna* defineth them (*eos qui cornu faciunt exercitios militares*). And *Briffonius lib. 3. de verbo significat.* saith thus of them: (*bi milium quoddam genus fuere, qui corniculu merebant, unde nomen habent.*) Where it appeareth by him out of *Suetonius, Plinie, and Livie,* that the horn was an honour and reward given for service in war.

- *Corner tile.* See *Gutter tile.*

Corody (*corodium*) commeth of the Latine verbe (*corodo*) and signifieth in our common Law, a summe of money or allowance of meate and drinke due to the King from an Abbey, or other house of Religion, whereof he is the founder, toward the reasonable

ble sustenance of such a one of his servants, being put to his pension, as hee thinketh good to bestowe it on. And the difference betweene a corrodie and a pension seemeth to be, that a corrodie is allowed toward the maintenance of any the Kings servants, that liveth in the Abbey: a pension is given to one of the Kings chaplaines for his better maintenance in the Kings service, unill he may bee provided of a benefice. Of both these reade Fitzb.
nat. br. fol. 230, 231, 233. who there setteth downe all the corrodies and pensions certaine, that any Abbey, when they stooode, was bound to performe unto the King. There is mention also of a corody in *Statu. prerogative* 44. And this seemeth to be an ancient law. For in *Westm.* 2. cap. 25. it is ordained, that an assise shall lie for a corrodie. It is also apparent by the Statute anno 34. & 35. H. 8. cap. 16. that corrodies belonged some time to Bishops from Monasteries: and by the new termes of Law, that a corrodie may be due to a common person by graunt from one to another, or of common right, to him that is founder of a religious house, not holden in franke almoyne. For that tenure was a discharge of all corrodies in it selfe. By which booke it appeareth also, that a corody is either

certaine or uncertaine, and that it may be for life, yeares, in taile, or in fee.

Corodio habendo, is a Writ, whereby to exact a corody of any Abbey or religious house. See *Corodie*, See the *Register originall* fol. 264.

Coronatore eligendo, is a Writ which after the death or discharge of any coroner, is directed to the Shyreeve out of the Chancery, to cal together the free holders of the Countie, for the choise of a new Coronor, to certifie into the Chancerie, both the election, and the name of the partie elected, and to give him his oath. See *Westm.* 1. c. 10. and *Fitzb. nat. br. fol. 163.* and the *Register orig. fol. 177.*

Coroner (*coronator*) is an ancient officer of this land, so calld, because he dealeth wholly for the King and Crowne. There be foure of them commonly in every county, and they are chosen by the freeholders of the same upon writ, and not made by Letters Patents. *Crompt. Jurisd.* fol. 126. This officer, though now he be some inferiour Gentleman, that hath some smattering in the Law: yet if wee looke to the Statute of *Westm.* 1. cap. 10. wee shall finde, that hee was wont, and ought to bee, a sufficient man: that is, the most wise and discreet Knight, that best will and may

may attend upon such an office. Yea, there is a writ in the Register, *Nisi sit miles, fo. 177. b.* whereby it appeareth, that it was sufficient cause to remove a Coroner chosen, if hee were not a Knight, and had not a hundred Shilings rent of Freehold. And the Lord Chiefe Justice of the Kings Bench, is the Soveraigne Coroner of the whole Realm in person. i. wheresoever hee remaineth, *libro assisarum f. 49. 5. coron.* *Coke, li. 4. casu. de Wardens, &c.* of the Sadlers, *fo. 57. b.* His office especially concerneth the Plees of the Crowne: But if you will reade at large, what anciently belonged unto him: reade *Braet. li. 3. tra. 2. ca. 5. de officio coronatorum circa homicidium:* and *ca. 6. de officio coronatoris in thesauris inventis:* and *cap. 6. de officio coronatorum in raptu virginum:* and *ca. 8. de officio coronatorum de pace & placis.* And *Britton* in his first chapter, where he handleth it at large. *Fleta* also in his first booke, *cap. 18.* and *Andrew Hornis mirror of Justices, li. 1. c. 1. del office del coroners.* But more aptly for the present times, *Statuens. pl. cor. li. 1. ca. 51.* Note there be certaine Coroners speciall within divers liberties, as well as these ordinary officers in every Countie: as the Coroner of the Verge, which is a certaine compasse about the Kings court, whom *Crompton* in

his *jurisd. fo. 102.* calleth the Coroner of the Kings house: of whose authoritie see *S. Edm. Cokes reports, li. 4. fol. 46. a. b.* And I know certaine charters belonging to Colleges, and other Corporations, whereby they are licensed to appoint their coroner within their own precincts. Farther of this office see also *Fitzb. nat. br. fol. 76. A. B. Sir Thomas Smith, li. 2. ca. 21. de repub. Anglo. and Lamb. Eirenarcha, li. 4. ca. 3. pa. 380.* And the office of the Coroner in *Scotland*, what it is, reade *M. John Skene de verbo, signific. verbo. Iter.*

Corporation (*Corporatio*) is that which the Civill law calleth *Universitatem*, or *Collegium*: A bodie Politicke authorized by the Kings Charter, to have a common Seale, a head Officer, one or more, and members able by their common consent, to grant, or to receive in law, any thing within the compasse of their Charter: even as one man may doe by Law all things, that by law he is not forbidden: and bindeth the Successours, as a single man bindeth his Executour or Heire. See *Brakes* his abridgement, *titulo Corporation:* and the new *Termes of Law*, *Eodem.*

Corpus cum causa, is a writ issuing out of the Chancerie, to remove both the bodie and

the record touching the cause of any man lying in execution, upon a judgement for debt into the Kings Bench, &c. there to lye untill hee have satisfied the judgement, *Fitzb. nat. br. fo. 251. E.*

Corrector of the staple, is an officer, or Clerke belonging to the Staple, that writheth and recordeth the bargains of Merchants there made, *anno 27. Ed. 3. stat. 2. cap. 22, & 23.* The Romans called them *Mensarios*.

Corruption of blood, is an infection growing to the state of a man attainted of Felony or Treason, and to his issue. For as hee leeseth all to the Prince, or other Lord of the Fee, accordingly as his case is, so his issue cannot be heires to him, or to any other Ancestor, of whom they might have claimed by him. And farther if he were noble, or a Gentleman before, hee and his children are made unnable and ungentele in respect of the father. *New Termes of the Law.*

Corse present, are words borrowed from the French, signifying a Mortuarie, *anno 21. H. 8. ca. 6.* The true French is (*corps présent*) i. the bodie presented or tendered. The reason why the Mortuarie is thus also termed, seemeth to be, for that where a Mortuarie was wont to be due, the bodie of the best Beast was according to the law or custome,

offered or presented to the Priest.

Corselet, is a French word, signifying a little Bodie, in Latine (*corpusculum*). It is used with us, for an armour to cover the whole body, or trunk of a man, *anno 4. & 5. Ph. & Mar. cap. 2.* where-with the Pikernen, commonly set in the front and flankes of the battell, are armed, for the better resistance of the enemis assaults, and the surer guard of the Gunners placed behind, or within them, being more sleightly armed, for their speedier issuing in and out to discharge their Peeces. See *Barretts discourse of Warre*, *li. 3. dialog. 2.*

Cosenage, (*cognatione*) is a writ, that lyeth where the Tresaile (that is, *Tritavus*, the father of the Besaile, or of the great Grand-father) is seised in his Demefn, as of Fee, at the day of his death, of certaine lands or tenements, and dyeth: and then a stranger entreth and abateth. For then shall his heire have this writ of *Cosenage*: the forme wherof see in *Fitzb. nat. br. fo. 221.* Of this also reade *Britton* at large, *ca. 89.*

Cosening, is an offence unnammed, whereby any thing is done guilefully in, or out of contracts, which cannot be fitly termed by any especiall name, *West. parte 2. Symbola ergo. titulu. Indictments. sect. 68.* It is called *stellionatus* in the civill Law of (*Stellio*), the beast

beast, which is *lacertæ genus et er-*
sturissimum, as *Cujacius* in his *pa-*
ratiles calleth it, and, *quo nullum*
animal homini invideat fraudulentius. *Plinie*, *li. 3. ca. 10.*

Cottage, (*cotagium*) is a house
without land belonging unto it.
anno 4. Ed. pri. statut. primo. And
the inhabitant of such a house is
called a *Cotager*. But by a later
statute, no man may build a *Cotage*,
but he must lay 4. Acres of
ground unto it; *31. Eli. ca. 7.*

Cote, is a kind of refuse wooll
clung or clotted together, that it
cannot be pulled asunder, *anno*
13. R. 2. stat. 1. cap. 9. It signifieth
also as much as *Cottage*, in many
places, as also it did among the
Saxons, *Verstegan* in his *Restitut. of*
decayed intelligence in antiquities.

Covenable, (*crationabilis*) is a
French word, signifying, fit or
convenient, or futeable, covenably
endowed, *anno 4. H. 8. ca. 12.*
it is anciently written (*convenable*)
as in the statute, *an. 27. Ed. 3.*
stat. 21. cap. 17. s. ut no[n] est hoc.

Covenant; *conventus* is the con-
sent of two, or more in one selfe
thing, to doe, or give somewhat,
West. parte 2. symbol. li. 1. sect. 4. It
seemeth to be as much as (*pactum*,
conventum) with the *Civilians*,
which you reade often times in
Tullie. Pactum conventum, quod &
vulgo vestuum vocant, opponitur
undo pacto, velut ab omni juris so-
lennitate destituto. Hujus exempla

ponere difficile esse Jason existimavit.
Conventum aient, quod vestitur, aut
re, aut verbis, aut literis, aut con-
tractus coherentia, aut rei interver-
tu. Oldendorpius. And covenant in
this signification, is either a co-
venant in law, or a covenant in
fact, *Coke. li. 4. Nokes case, fo. 80.*
or covenant expresse, and cove-
nant in law, *idem. li. 6. fo. 17. a.*
Covenant in law is that, which
the law intendeth to be made,
though in words it be not ex-
pressed: as if the lessour doe de-
mise and grant, &c. to the Leas-
see for a certaine terme, the
Law intendeth a covenant of
the lessers part, that the Leassee
shall, during his whole term,
quietly enjoy his Lease against
all lawfull encumbrance. Cova-
enant in fact, is that which is ex-
pressly agreed betweene the par-
ties. There is also a covenant
merely personall, and a covenant
reall, *Fitzh. nat. br. fo. 145.* And he
seemeth to say, that a covenant
reall is, whereby a man tyeth
himselfe to passe a thing reall,
as land or tenements, as a cova-
enant to levie a Fine of land, &c.
a covenant merely personall of
the other side is, where a man
covenanteth with another by
deed, to build him a house, or a
ny other thing, or to serve him,
or to infeoife him, &c. Covenant
is also the name of a writ, for
the which see *Conventions. Instru-*

ments of covenants, you may see good store in West. parte. i. Symbolog. lib. 2. sectio 100. See also the new booke of Entries, verbo, *Covenant.*

Covent, (*conventus*) signifieth the society or fraternity of an abbie or priorie, as (*societas*) signifieth the number of fellowes in a Colledge. Bracton. lib. 2. cap. 35. It commeth of the French (*conventum* i. *canobium*).

Coverture, is a French word signifying any thing that covereth, as apparell, a coverlet, &c. and deduced from the verb (*couvrir* i. *segerre*.) It is particularly applied in our common Lawe, to the estate and condition of a married woman who by the lawes of our Realme, is in (*pote-state viri*) and therefore disabled to contract with any, to the prejudice of her self or her husband, without his consent and privity; or at the least, without his allowance and confirmation. Broke hoc tit. per totam. And Bracton sayth, that *omnis que sunt uxoris, sunt ipsius viri, nec habet uxor potestatem sui, sed vir.* li. 2. cap. 15. and that (*vix est caput mulieris*) li. 4. cap. 24. and againe, that In any law matter, *sine viro respondere non potest*, li. 5. tract. 2. cap. 3. and tract. 5. cap. 23. ejusdem libri, hee hath wordes to this effect: *vix uxori fuerit quasi unica persona: quia ex uno sanguinis unus.* Res Bees

sit propria uxoris, vir tamen ejus custos, cum sit caput mulieris, and lib. 1. cap. 10. nro. 2. Uxores sunt sub virga viri. And if the husband alienate the wifes land, during the mariage, shee cannot gaineſay it during his life. See *Cui ante diuortium*, and *Cui in vita.*

Covine, (*cavina*) is a deceitfull assent or agreement between two or more, to the prejudice or hurt of another. New termes of law. It commeth of the French verbe (*convenanter* i. *depascisci*.) or rather (*convenir* i. *conuenire*.)

Cowcher, signifieth a Factour that continueth in some place or Countrey for trafique. nro 37. Ed. 3. cap. 16. It is used also for the generall booke, into which any Corporation entreth their particular acts for a perpetuall remembrance of them.

Counte, commeth of the French (*compte*. i. *subdatus, computatio, ratis*) or of *comte*. i. *narratio*.) It signifieth as much as the originall declaration in a proces, though more used in reall actions then persoall, as declaration is rather applied to persoall then reall. Fitzb. nat. br. fol. 16. A. 60. D. Pl. 71. A. 191. E. 217. A. (Libellus) with the Civilians comprehendeth both. And yet count and declaration be confounded sometimes; as count in debt. Kitchin. fol. 281. count or declaration in appealle. pl. cor. fol. 78. Count

Count in trespass, *Britton, ca. 26.*
Count in an action of Trespass
upon the case for a slander, *Kir.
fol. 252.* This word seemeth to
come from *France and Normandy.*
For in the *grand Custumarie, cc.*

64. I find (*Contours*) to be those,
which a man setteth to speake
for him in court, as advocates: and
c. p. 63. (*Pledours*) to be another
sort of spokes men, in the nature
of Attorneys, for one, that is him-
selfe present; but suffereth ano-
ther to tell his tale. Where also
in the 65. chapter, Attorney is
said to be he, that dealeth for
him that is absent. See this text
and glosse upon those 3. chapters.

Contours (by *Horn* in his *Mirror
of Justices, li. 2. ca. Des loyers*) are
Sergeants skilfull in the law of
the Realme, which serve the
common people, to pronounce
and defend their actions in judg-
ment for their fee, when occasion
requireth: whose duty, if it be as
it is there described, and were
observed, men might have much
more comfort of the Law then
they have.

Couenant, seemeth to be u-
sed for credit or estimation, *Old
nat. br. fo. 111.* In these words: Al-
so the attaint shall be granted
to poore men that will sweare,
that they have nothing whereof
they may make Fine, saving their
couenant, or to other by a
reasonable Fine. So is it used, *an-*

no 1. Ed. 3. stat. 2. cap. 4. in these
words: Sheriffes shall charge the
Kings debtors with as much as
they may levie with their oathes,
without abating the Debtors
countenance.

Couinter (*computatorium*) see-
meth to come of the Latine (*com-
putare*) or the french (*couinter.*) For
we use it for the name of a prison,
whereinto, he that once slippeth,
is like to account ere he get out.

Counterplee, is compounded of
two French words (*contre. i. con-
tra, adversus*) and (*pledere. i. causam
agere.*) It signifieth properly in
our common Law, a replication
to (*ayde priet.*) For when the te-
nent by courtesie, or in dower,
prayeth in ayde of the King,
or him in the reversion, for his
better defence: or else if a stranger
to the action begun, desire to be
received, to say what he can for
the safegard of his estate: that
which the demandant alleageth
against this request; why it should
not be admitted, is called a coun-
ter plee. See *Broke iii.* And in this
signification it is used, *anno 25.*
Ed. 3. stat. 3. cap. 7. See also the
new termes of the Law, and the
statute, *anno 3. Ed. 1. cap. 39.*

County, (*comitatus*) signifieth
as much as (*Shire*) the one descen-
ding from the French, the other
from the Saxons, both contrai-
ning a circuit or portion of the
realm, into the which the whole
land

land is divided, for the better government thereof, and the more easie administration of justice. So that there is no parte of the Kingdome, that lieth not within some County, and every County is governed by a yearly officer, whom we call a Sheriff, which among other duties belonging to his office, putteth in execution all the Commandements and Judgments of the Kings courts, that are to be executed within that copasse, *Fortescue cap. 24.* Of these Counties, there be fourre of especiall marke, which therefore are termed Countie Palatines; as the Countie Palatine of *Lancaster*, of *Chester*, of *Durham*, and of *Ely*, *an. 5. Eliz. 1. ca. 23.* I read also of the Countie Palatine of *Hexam*, *an. 33. H. 8. ca. 10.* Unde quere. And this Countie Palatine is a Jurisdiction of so high a nature, that whereas all Plees touching the life, or mayhem of man, called Plees of the Crowne, be ordinarily held and sped in the Kings name, & cannot passe in the name of any other, the chiefe governors of these, by especiall charter from the King, did heretofore send our all writs in their ownen name, and did all things touching Justice, as absolutely as the Prince himselfe in other Counties, only acknowledging him their Superior and Sovraigne. But by the statute *anno 27. H. 8. ca. 25.* this power is

much abridged, unto the which I refer the reader, as also to *Crom. Juris. f. 137.* for the whole course of this court. Besides these Counties of both sorts, there be likewise Counties Corporate, as appeareth by the statute *anno 3. Ed. 4. 5.* And these be certaintie Cities, or ancient Boroughs of the land, upon which the Princes of our Nation have thought good to bestow such extraordinary liberties. Of these the famous Citie of *London* is one, and the principall; *Yorke* another, *an. 32. H. 8. cap. 13.* the Citie of *Chester* a third, *an. 42. Eliz. cap. 15.* *Canterbury* a fourth, *Lamb. Eire lib. 1. cap. 9.* And to these may be added many more: but I have onely obserued out of the statutes & other writers, the Countie of the Towne of *Kingston upon Hull*, *anno 32. H. 8. cap. 13.* the Countie of the towne of *Haverford West*, *anno 35. H. 8. cap. 26.* and the Countie of *Litchfield*, *Cromptons Justic peace, f. 59. a.* Countie is in another signification used for the Countie court, which the Sheriff keepeþ every moneth within his charge, either by himselfe or his Deputie, *anno 2. Ed. 6. ca. 25. Crompt. Juris. f. 221. Bract. li. 3. c. 7. & l. 3. tract. 2. cap. 12.* Of these Counties or Shires one with another, there are reckoned in *England* *37.* beside twelye in *Wales*.

The

The word (*comitatus*) is also used for a jurisdiction or territorie among the Feudists.

County court (*curia comitatus*) by M. Lambert is otherwise called (*conventus*) in his explication of Saxon words, and divided into two sorts : one retaining the generall name, as the County-court held every moneth by the Shyreeve, or his deputie the under-shyreeve, whereof you may read in *Cromptons Jurisd. fol. 231.* the other called the Turne, held twice every yeare, which see more at large in his place : and *Cromptons Jurisd. fol. 231.* This County court had in auncient times the cognition of these and other great matters, as may appeare by *Glanvile lib. 1. cap. 2. 3. 4.* by *Bracton* and *Britton* in divers places, and by *Fleta lib. 2. cap. 62.* But that was abridged by the Statute of *Magna charta. cap. 17.* and much more by *1. Ed. 4. cap. unico.* It had also, and hath the determination of certaine trespasses, and debts under forty shillings. *Britton. cap. 27. & 28.* what maner of proceeding was of old used in this Court, see *Fleta ubi supra.*

Courfitorur. See *Cursetour.*

Court (*curia*) commeth of the French (*court*) which signifieth the Kings Palace or Mansion, as (*curis*) doth among the Lombards. All these spring of the La-

tine (*curia*) which signifieth one of thirty parts, into which Romulus divided the whole number of the Romans : sometime also the Senat house, as appeareth by *Tully* in his Offices (*nihil est quod dignum nobis, aut in foro aut in curia agere possumus* : which in his oration (*pro Milone*) he calleth *Templo sanctitatis, amplitudinis mentis, consilii publici, caput urbis, &c.* Court, with us, signifieth diversly : as the house where presently the King remaineth with his ordinary retinue, & also the place where Justice is judicially ministred : of which you finde 32. several sorts in *M. Cromptons book of Jurisdictions* well described. And of them most bee courts of record : some be not, and therefore are accounted base courts in comparison of the rest. Beside these also there are Courts Christian. *Smith de repub. Anglor. lib. 3. cap. 9.* which are so called, because they handle matters especially appertaining to Christianite, and such as without good knowledg in Divinity cannot be well judged of, being held heretofore by Archb. and Bishops, as from the Pope of Rome : because he chalenged the superioritie in all causes spirituall: but sithence his ejection, they hold them by the Kings authoritie (*virtute magistratus sui*) as the Admirall of England doth his Court. Where-

upon it proceedeth, that they send out their precepts in their own names, and not in the Kings, as the Justices of the Kings courts doe. And therfore as the appeale from these Courts did lye to Rome: now by the Statute anno 25. H. 8. cap. 19. it lieth to the King in his Chancerie.

Court baron (curia baronis) is a Court that every Lord of a maner (which in anncient times were called Barons) hath within his owne precincts. Barons in other Nations have great Territories and jurisdiction from their Soveraignes: as may be proved out of *Cassianus de gloria mundi. parte 5. consideratio 56.* by *Vincentius de Franchis de seisis. 211.* and many others. But here in England what they be, and have beene heretofore, see in *Baron.* Of this Court Baron you may reade your fill in *Kitchin,* that writeth a large Booke of it, and of a Court Leete. Sir *Edward Coke* in his fourth Booke of Reports, amongst his Copy-hold cases. fol. 26. b. saith, that this Court is two after a sort: and therefore if a man having a manor in a Towne, and doe graunt the inheritance of the Copy-holders thereunto belonging unto another: this grantee may keepe a Court for the customarie tenants, and accept surrenders to the use of others,

and make both admittances and graunts: the other Court is of Free-holders, which is properly called the Court Baron, wherein the suters, that is, the Freeholders be Judges: whereas of the other the Lord or his Steward is Judge.

Court of Pypowders. See *Pipowders.*

Court of Requests (curia requestarum) is a Court of equitie, of the same nature with the Chauncerie, principally instituted for the helpe of such petitioners, as in conscientable cases deale by supplication with his Majestie. This Court, as *M. Gwin* sayth, in the Preface to his Readings, had beginning from Commission first graunted by *Henry* the eight to the Masters of Requests: whereas before that time (by his opinion) they had no warrant of ordinary jurisdiction, but travelled between the King and the Petitioner by direction from the Kings mouth. But *Sir Julius Caesar* in a Tractate of his, painefully and very judiciously gathered from the Records of the same Court, plainly sheweth that this Court was *9. Henrici septimi*, though then following the King, and not settled in any certaine place, neither swayed particularly by the Masters of Requests, (as now it is) but more at large by others of

of the Kings most Honourable Councell, whom he pleased to employ in this service. For page 148. of the said Tractate, you have the forme of the oath then ministred to those that were Judges in this Court : and à pag. pri. usque ad pag. 46. causes of divers natures, which in the said Kings dayes, were there handled and adjudged. This Court, as that right Honourable and Learned Knight, in a Briefe of his upon the same Court plainly proveth, was and is parcell of the Kings most Honourable Councell, and so alwayes called and esteemed. The Judges therof were alwayes of the Kings most Honourable Councell, appointed by the King to keepe his Councell board. The keeping of this Court was never tyed to any place certaine, but onely where the Councell sat, the suters were to attend. But now of late for the ease of suters, it hath beene kept in the White Hall at Westminster, and onely in the Terme time. It is a court of Record, wherin Recognizances are also taken by the Kings Councell. The forme of proceeding in this court, was altogether according to the proesse of summarie causes in the Civill Law. The persons Plaintifffes and Defendants, were alwayes either privileged, as officers of the Court, or their ser-

vants, or as the Kings servants; or as necessarie Attendants of them : or else where the Plaintifffes povertie, or meane estate was not matchable with the wealth or greatnessse of the Defendant : or where the cause merely contained matter of Equitie, and had no proper remedie at the Common law : or where it was specially recommended from the King to the Examination of his Councell : or concerned Universities, Colleges, Hospitals, and the like. The causes where-with they deale, and whereof they judge, are of all sorts : as *Mariine, Ultra Marine, Ecclesiasticall, Temporall* ; But properly Temporall causes, and onely of the other sort, as they are mixt with Temporall. The manner of proceeding in the said Court, is first, by Privie Seale, Letters Missive, or Injunction, or Messenger, or Bond. Secondly, By Attachment. Thirdly, by Proclamation of Rebellion. Fourthly, by Commission of Rebellion. Fifthly, by Sergeant at Armes. The effect of the Defendants Apparence is, that hee attcn̄d *De die in diem* on the Councell, till hee have made his Answer to the Plaintifffes Bill, and bee licensed to depart upon caution *De judicio sisti & judicato*.

Salvendo, and constitution of his Attorney & Councell by name. The authoritie of this Court is such, as upon cause to graunt injunctions for barring the defendant from suing the Plaintiff at the Common Lawe: and to stay the suite at the Common Lawe before commencement, and not to arrest the body of the Plaintiff till further order be taken by the Kings Councell: and the execution of a Decree in this Court may be done, either by imprisonment of the person disobeying, being partie, or claiming, under the partie: or by levy of the summe adjudged upon his Lands.

Courtesie of England (*lex Angliae*) commeth of the French, (*Courtesie. i. benignitas, humanitas*) but with us hath a proper signification, being used for a tenure. For if a man marry an Inheritrice, that is, a woman seised of Land in fee simple, or fee taile generall, or seised as heire of the taile speciall, and getteth a childe of her that commeth alive into the world, though both it and his wife die forthwith, yet if she were in possession, shall he keepe the land during his life, and is called *tenant per Legem Angliae*, or by the courtesie of England. *Glanvil. lib. 7. cap. 18.* *Bracton. lib. 5. tracta. 5. cap. 30. nu.*

7, 8, 9. Britton. cap. 51. fol. 132. *Fleta. li. 6. ca. 5.6. § lex quadam.* *Fitzb. nat. br. fol. 149. D. Littleton. li. 1. cap. 4.* It is called the law of England. *Westm. 2. ca. 3.* This is in Scotland called (*curialitas Scotie. Skene de verbo, sign. verbo Curialitas*): who there saith that this is used in these two Realmes onely, and maketh a large discourse of the custome.

Combeuslauge, is he that wittingly receiveth a man outlawed and cherisheth or hideth him. In which case hee was in auncient times subject to the same punishment, that the outlawe himselfe was. *Bracton. lib. 3. tracta. 2. cap. 13. nu. 2.* It is compounded of (*combe. i. knowne, acquainted, familiar, and (nilanghe) an outlaw*, as we now call him).

Coutilage, alias curtilage (*curtilagium, alias curtilegium*) signifieth a garden, a yard, or a field, or piece of voide ground lying neere and belonging to a mesnage, *West. parts 2. Symbolao. titulo Fines. sect. 26.* And so is it used *anno 4. Ed. 1. cap. unico anno 35. H. 8. cap. 4. & anno 39. Eliz. cap. 2. and Coke vol. 6. fol. 64. a.* Of this also *Lindwood* thus wrieth. *Curtilegium vulgare nomen est, non omnium patiarum, sed certarum. Est enim curtis mansio vel manerium ad habitandum cum terris, possessionibus, & aliis emolumenitis ad tale manerium pertinentibus*

tibus, prout satis colligitur in libro
fendorum, titulo, *De controversia
investiture, q. si quis de manso. Col.
10. Unde curtilegium dicitur locus
adjunctus et ali curti, ubi leguntur
herbae vel olera: sic dictus a (curtis) & (lego legis) pro colligere.* Thus
farre Linwood, titulo de decimis.
ca. Sancta. q. omnibus, verbo Curte-
legiorum. So that ineffect, it is a
Yard or a Garden adjoyning to
a house.

Creansour (creditor) commeth
of the French (croyance. i. persua-
sion) and signifieth him that trust-
eth another with any debt, be it
in money or wares, *Old nat. br.*
fol. 67.

Cranage, (cranagium) is a li-
bertie to use a Crane for the
drawing up of wares from the
vessels, at any creek of the sea or
wharfe, unto the land, & to make
profit of it. It signifieth also the
money paid and taken for the
same. *New Booke of Entries,*
fol. 3. col. 3.

*Crike, (creca, crecea, vel cre-
cum)* seemeth to be a part of a
Haven, where any thing is lan-
ded or disburthened out of the
Sea. So that when you are out of
the Maine Sea, within the Ha-
ven, looke how many landing
places you have, so many Creeks
may be said to belong to that
Haven. See *Cromptons jurisdictiones*,
fol. 110. a. This word is
mentioned in the statute, as an-

no 5. *Eli. cap. 5.* and divers o-
thers.

Creast tile. See *Roofe tile.*

Croft, (croftum) is a little close
or pitle joyned to a house, that
sometimes is used for a Hemp
ground, sometime for Corne,
and sometime for Pasture, as the
owner listeth. It seemeth to
come of the old English word
(creast) signifying handy-craft:
because such grounds are for
the most part extraordinarie
dressed and trimmed by the
both labour and skill of the
owner.

Croises, (cruce signati) be used
by *Britton*, ca. 122. for such as are
Pilgrims: the reason may be, for
that they weare the signe of the
Crosse upon their Garments. Of
these, and their Priviledges, reade
Bracton, lib. 5. parte 2. cap. 2. &
parte 5. cap. 29. and the *Grand
Custumary of Normandy, cap. 45.*
Under this word are also signi-
fied, the Knights of the order of
Saint John of Jerusalem, created
for the defence of Pilgrims, *Gre-
gor. Syntagma. lib. 15. cap. 13.*
& 14.

Cuckingstoole, (tumbrells) is an
engine invented for the punish-
ment of Scolds and unquiet wo-
men, called in ancient time a
tumbrell, *Lamb. Eirenarcha. li. 1.*
cap. 12. po. 62. in meo. Bracton
writeth this word (*Tymborella.*)
Kitchin, where hee saith, that

every one having view of Frank-pledge, ought to have a Pillorie and a Tumbrell, seemeth by a Tumbrell, to meane the same thing, cap. Charge in Court leet. fol. 13. a.

Cuth, other, unctus (*privatus vel extraneus*.) These be old English words, not yet worne out of knewledge, for the which see Roger Hoveden, parte poster. suo-rum annalium, fol. 345. a.

Cuduslaghe. See *Conting-
langhe*.

Cui ante divorcium, is a writ, that a woman divorced from her Husband, hath to recover lands or tenements from him, to whom her husband did alienate them during the marriage: because, during the marriage, shee could not gainesay it, Register orig. fol. 233. Fitzb. nat. br. fol. 204.

Cuinage, is a word used for the making up of Tinne, into such fashion as it is commonly framed into for the cariage ther-of into other places, anno 11. H.7. cap. 4.

Cui in vita, is a writ of Entry, that a widow hath against him, to whom her Husband aliened her lands or tenements in his life time: which must containe in it, that during his life time, shee could not withstand it; Register orig. fol. 232. Fitzb. nat. br. fol. 193. See the new Booke of

Entries, verbo, *Cui in vita*.

Cuntey cuntey, is a kind of triall, as appeareth by Bracton in these words: *Negotium in hoc casu ter-
minabitur per cuntey cuntey*, sicut
intr coheredes Bracton li. 4. tract.
3. cap. 18. And againe, in the
same place: *In brevi de recto ne-
gotium terminabitur per cuntey
cuntey*. And thirdly, lib. 4. tract.
4. cap. 2. *Terminabitur negotium
per breve de recto*: *ubi nec duellum,
nec magna assisa*, sed per cuntey
cuntey omnino: which in mine
opinion is, as much as the ordi-
narie Jury.

Curfew, commeth of two French words (*couvrir. i. tegere*) and (*feu. i. ignis*.) We use it for an Evening Peale, by the which, the Conqueror willed every man to take warning for the raking up of his fire, and the putting out of his light. So that in many places at this day, where a Bell customably is rung toward Bed-time, it is said to ring Curfew: Stowes annals.

Curia avisare vult, is a delibera-
tion, that the Court purposeth
to take upon any point or points
of a cause, before judgement be
resolved on. For this, see the new
Booke of Entries, verbo, *Curia
avisare vult*.

Curi claudenda, is a writ, that
lyeth against him, who should
fence and close up his ground,
if he refuse, or deferre to doe it,
Register.

Regist. orig. fol. 155. Fitzb. nat. br. fol. 127. See also the new Booke of Entries, verbo, *Curia clande-*

Cursiter (*clericus de cursu, vel cursista curiae cancellarie*) is an officer or Clerke, belonging to the Chancerie, that maketh out originall writs, anno 14, & 15. H.8. ca. 8. They be called Clerkes of Course, in the oath of the Clerks of the Chancery, appointed anno 18. Ed. 3. stat. 5. ca. unico. There be of these, 24. in number, which have allotted unto every of them, certaine Shires; into the which, they make out such originall writs, as are by the subject required, & are a Corporation among themselves.

Curtayne (*curtana*) was the name of King Edward the Saint his Sword, which is the first Sword that is caried before the Kings of this Land at their Coronation, *Mathew Parisiens.* in Henrico tertio. And I have heard say, that the point thereof is broken: which may argue an Emblem of Mercie.

Curtilage. See *Cartelage.*

Custode admittendo, & Custode amovendo, are writs for the admitting or removing of Gardians, *Reg. orig. in indice.*

Custom (*consuetudo*) is all one in signification with our common Lawyers and Civilians, being by them both accounted a

part of the law, *Consuetudo quandoque pro lege servator* (*saith Bratton*) in partibus ubi fuerit more usentium approbata. Longevi enim temporis usus & consuetudinis non est nisi auctoritas, li. 1. ca. 3. It may be thus not unaptly defined: Custome is a law or right not written, which being established by long use, and the consent of our Ancestors, hath beene, and is daily practised: our Ancestors that is (*majores,*) and those of our kindred that are *Ultra tritavum*, lib. 4. q. parentem, π. de in ius vocando, l. ult. q. parentes, π. de gradibus & affini, & nominibus eorum. So that allowing the father to be so much older than his sonne, as (*pubertas*) or the yeares of generation doe require, the Grandfather so much elder then him, and so forth *usque ad tritavum*: wee cannot say that this or that is a custome, except wee can justifie, that it hath continued so one hundred yeares. For *tritavus* must be so much elder then the party that pleadeth it: yet because that is hard to prove, it is enough for the proofe of a custome by witnesses in the Common law, (as I have credibly heard) if two or more can depose, that they heard their fathers say, that it was a custome all their time, and that their fathers heard their fathers also say, that it was likewise a custome in their time.

If

If it be to be proved by record, the continuance of a hundred yeares will serve. Custome is either generall, or particular: Generall I call that, which is current thorow *England*: whereof you shall reade divers in the *Ductor and Student*, lib. pri. cap. 7. very worthy to bee knowne. Particular is that, which belongeth to this or that countie, as *Gavelkind* to *Kent*, or to this or that Lord-ship, Citie, or Towne. Custome differeth from prescription, for that custome is common to more, and Prescription (in some mens opinion) is particular to this or to that man. Againe, Prescription may be for a farre shorter time then a Custome, *viz.* for five yeares, or for one yeare, or less. Example of five yeares Prescription you have in the levying of a Fine. For if a Fine duly levied of lands and tenements be not impugned within five yeares, it excludeth all claime for ever. And if man omit his continuall claime for a yeare and a day: then the tenant in possession prescribeth an immunitie against the entry of the Demandant and his heire, *Fitz. nat. br. fo. 79. Terms of the law, verbo, Continuall claime.* Out of our statutes you may have greater diversitie, which see collected in mine Institutes, *titulus de Usucapio: & longi tempo. prescript.* So that *Brissoni*

in his 14. *de verbo signif.* seemeth to say truly, that Prescription is an exception founded upon so long time run and past, as the law limiteth for the pursuit of any action. An example may be taken from those statutes, anno 1. H. 8. cap. 4. which enacteth, that in all action popular, information shall be made within three yeares after the offence committed, or else be of no force. Of like nature is the Statute, anno 7. H. 8. ca. 3. which in some cases maketh one yeares prescription sufficient against informations. Custome is also used for the tribute or tolle, that Merchants pay to the King for carrying in and out Merchandise, anno 14. Ed. 3. stat. 1. ca. 21. in which signification it is latined (*Custuma*) Register orig. fo. 138.a, 129.a. And lastly, for such services, as tenants of a Manor owe unto their Lord: New booke of Entries, *verbo Custome.*

Customary tenants, (*tenentes per consuetudinem*) are such tenants, as hold by the custom of the Manor, as their speciall evidence. See *Copie-holds.*

Custos brevium, is the principall clerk belonging to the court of Common Pleas: whose office is to receive and keepe all the writs, and put them upon files, every returne by it selfe, and at the end of every Terme to receive

of the Protonotaries all the Records of (*Nisi prius*) called the (*postea*). For they are first brought in by the Clerk of Assise of every circuit to the Protonotary that entred the issue in that matter, for the entring of the Judgement. And then doe the Protonotaries get of the Court peremptory day, for every party to speake what hee hath to allege in arrest of Judgement : which day being past , he entreth the Verdict and Judgement thereupon into the rolls of the Court : and that done, he doth in the end of the Terme deliver over to the *Custos brevium*, all the Records of (*Nisi Prius*) which came to his hand that Terme : which received, he bindeth into a bundle and besloweth them. The *Custos brevium* also maketh entry of the Writs of covenant, and the concord upon every Fine: and maketh forth exemplifications and copies of all Writs and Records in his office, and of all Fines levied. The Fines after they be ingrossed, the parts thereof are divided between the *Custos brevium* and the *Chirographer* : whereof the *Chirographer* keepeth always with him the Writ of covenant and the note, the *Custos brevium* keepeith the concord and the foote of the fine, upon the which foot the *Chirographer* doth cause the Proclamations to bee endorsed,

when they bee all proclaimed. This Office is in the Princes gift.

Custos placitorum corone : *Bra-*
eton. li. 2. ca. 5 This seemeth to be
all one with him, whom wee
now call (*Custos rotulorum*) of
this Officer I find mention in the
Writ (*odio & atia*) *Regist. orig.*
fol. 133. b.

Custos Rotulorum, is hee, that
hath the custodie of the Rols or
Records of the Sessions of Peace :
and (as some thinke) of the com-
mission of the Peace it selfe.
Lamb. Eirenach. li. 4.ca. 3.pa. 373.
He is alwayes a Justice of Peace
and *Quorum*, in the Countie
where he hath his Office, *Idem,*
eodem, and by his Office hee is
rather termed an Officer or Mi-
nister then a Judge : because the
Commission of the Peace lay-
eth, by expresse words this espe-
ciall charge upon him : *quod ad*
dies & loca predicta, brevia, pre-
cepto, processus, & indictamenta
predicta coram te & dictis sociis
tuis venire facias. Idem, eodem.
where reade a competent tract of
other things belonging to this
Office.

Custos of the spiritualties (*custos*
spiritualitatis vel spiritualium) is
he that exerciseth the Spirituall
or Ecclesiasticall Jurisdiction of
any Dioces, during the vacancie
of the See: the appointment of
whom by the Canon Law ap-

pertaineth to the Dean and Chapter. *ca. ad abolendam Extra. Ne sede vacante aliquid innovetur.* But with us in England to the Arch-bishop of the Province by prescription. Howbeit, divers Deanes and Chapters (if *M. Gwin* say truely in the Preface to his Readings) doe challenge this by auncient Charters from the Kings of this Land.

Cutter of the tayles, is an officer in the Exchequer, that provideth Wood for the Tayles, and cutteth the summe paid upon them, and then casteth the same into the Court to be written upon.

DAmage, commeth of the French (*dam*) or (*domage*) signifying generally any hurt or hinderance that a man taketh in his estate : But in the Common Law, it particularly signifieth a part of that the Jurours be to enquire of, passing for the Plaintiff or Demaundant in a Civill action, be it personall or reall. For after verdict given of the principall cause, they are likewise asked their consciences touching costs (which bee the charges of suite, called of the Civilians (*expensa litis*) and damages, which conteine the hindrance that the Plaintiff or

Demaundant hath suffered by meanes of the wrong done to him by the Defendant or Tenant.

Dane-guilt, Dane-gold, or Dane-gelt (*Danegeldum*) is compounded of (*Dane* and *gelt*. i. *pecunia*) and was a Tribute layd upon our Ancestors of twelve pence for every Hide of Land through the Realme by the Danes, that once got the masterie of us, in regard (as they pretended) of clearing the Seas of Pyrates, which greatly annoyed our Land in those dayes. *Cambd. Britan. 83.* with whom agree the lawes of *Edward* set out by *M. Lamberd, ca. 11. Stow in his annals, pag. 118.* saith, that this tribute came to 40000. pounds by the yeare, and that it was released by *Edw. the Confessor.* *The Author of the new Termes of Law* saith, that this tribute began in the time of King *Etheldred*, who being sore distressed by the continual invasion of the *Dane*, to procure his peace, was compelled to charge his people with importable payments. For first he gave them at five severall payments 113000. pounds, and afterward granted them 48000. pounds yeerely. See *Roger Hoveden parte poster. siuorum annalium in Henrico secundo fol. 344. a.*

Dareyn continuance. See *Continuance.* *Darein* is a corrupt word of

of the French (*dernier. i. ultimus.*)

Darrein presentment (*ultima presentatio*. See *Affise* or *Darreyn presentment*.

Dates (*daclylis*) is the plumme or fruit of the tree in Latine called *palma*, in English the Date tree well knowne to most men by sight. And he that will farther understand the nature or diversities of this fruite, may repaire to *Gerards Herball. lib. 3. cap. 131.* They be numbred among Spices and Drugs to be garbled. *i. Jacob. 19.*

Day (*dies*) is sometime used in the Law, for the day of appearance in Court, either originally, or upon assignation; and sometime for the returnes of Writs. For example, dayes in banke, be dayes set downe by Statute or order of the Court, when Writs shall bee returned, or when the partie shall appeare upon the Writ served. And of this you may reade the Statutes, *anno 51. H. 3. ca. 1. & 2. Marl. cap. 12. anno 52. H. 3.* and the Statute *de anno bissextili. anno 21. H. 3.* and lastly, *anno 32. H. 8. cap. 21.* To be dismissed without day, is to be finally discharged the Court. *Kirchin. fol. 193.* He had a day by the Rolle. *Kitebin fol. 197.* that is, he had a day of appearance assigned him. Day, Yeere, and waste. See *Dies, and yeare.*

Deadly feude (*feuda*) is a profession of an unquenchable hatred, untill we be revenged, even by the death of our enemy. It is deduced from the German word (*Feed*) which, as *Hotoman* saith, *in verbis feudsibus, modo bellum, modo capitales inimicitias significat.* This word is used, *anno 43. Eliz. cap. 13.*

Dead pledge (*mortuum vadum*) See *Mort gage.*

Deane, (*decanus*) is an Ecclesiastical Magistrate, so called of the Greeke (*δικαῖος*) because hee hath power over ten *Canons* at the least. Howbeit, in *England* we use to call him a Deane, that is next under the Bishop, and chiefe of the Chapter ordinarily in a Cathedrall Church: and the rest of the Societie or Corporation wee call *Capitulum*, the Chapter. But this word how diversly it is used, read *Lindwood, titulo de judic. ca. pri. verbo Decani rurales*, where Deane Rurals are said to bee certaine persons that have certaine jurisdiction Ecclesiastical over other Ministers and Parishes neere adjoyning, assigned unto them by the Bishop and Archdeacon, being placed and displaced by them. As there bee two foundations of Cathedrall Churches in England, the old, and the new (the new be those which *Henry* the eighth upon suppression of Abbes transformed from

Abbot or Prior and Covent to Deane and Chapter) so be there two meanes of creating these Deanes. For these of the old foundation are brought to their dignitie much like Bishops: the King first sending out his *Conge d'assire* to the Chapter, the Chapter then chusing, the King yeelding his royall assent, and the Bishop confirming him, and giving his mandate to install him. Those of the new foundation are by a shorter course installed by vertue of the Kings Letters Patents, without either election or confirmation. This Word is also applyed to divers that are the chiefe of certaine peculiar Churches, or Chappels, as the Deane of the Kings Chappell, the Deane of the Arches, the Deane of Saint George his Chapel in *Windsor*, the Deane of *Bocking in Essex*.

Debet & solet: These words are divers times used in the Writers of the Common Law, and may trouble the minde of a yong Student, except hee have some advertisement of them. For example, it is said in the *Old. nat. br. fo. 98.* This Writ (*de scita molendini*) being in the (*debet*) and (*solet*) is a Writ of right, &c. and againe, fo. 69. A Writ of (*Quod permittat*) may be pleaded in the Countie before the Sheriffe, and it may be in the (*debet*) and in the (*solet*) or the (*debet*) without

the (*solet*) according as the Demandant claimeth. Wherfore note, that those Writs that be in this sort brought, have these words in them, as formall words not to bee omitted. And according to the diversitie of the case, both (*debet*) and (*solet*) are used, or (*debet*) alone: that is, if a man sue to recover any right by a Writ, whereof his Auncester was disseised by the Tenant or his Auncstor, then hee useth onely the word (*debet*) in his Writ, because (*solet*) is not fit by reason his Auncstor was disseised, and the custome discontinued: but if he sue for any thing, that is now first of all denied him, then hee useth both these words (*debet & solet*) because his Auncstors before him, and hee himselfe usually enjoyed the thing sued for: as fuit to a Mill, or common of Pasture untill this present refusall of the Tenant. The like may be said of (*debet*) and (*detinet*) as appeareth by the *Regist. orig.* in the writ *de debito, fol. 140. a.*

Debito, is a writ which lyeth, where a man oweth to another a certaine summe of money upon an obligation or other bargaine, for anything sold unto him. *Fitz. nat. br. fo. 119.* This writ is made sometime in the *Detinet*. and not in the *Debet*. which properly falleth out, where a man oweth an Annutie: or a certaine quantitie of wheat,

wheat, barley, or such like, which he refuseth to pay, *Old nat. br. fol. 75.* See *Debet & Solet.*

Danelage (*danelagia*) is the law that the Danes made here in England, out of which, and *Mercenlage*, and *West Saxonlage*, the Conquerour compounded certaine ordinances for his subjects, *Camdeni Britan. pa. 94. & pag. 183.*

Decem tales. See *Tales.*

Decies tantum, is a writ that lieth against a Jurour, which hath taken money for the giving of his verdict, called so of the effect, because it is to recover ten times so much as he tooke. It lieth also against Embracers that procure such an enquest, anno 38. Ed. 3. ca. 13. Reg. orig. fol. 188. Fitzb. nat. br fo. 171. *New book of Entries*, verbo *Decies tantum*.

Deceit (*deception, fraus, dolus*) is a subtile wily shift or devise, having no other name. Hereunto may bee drawne all manner of craft, subtily, guile, fraud, wilynesse, slightnesse, cunning, covin, collusion, practise, and offence, used to deceive another man by any meanes, which hath none other proper or particular name, but offence, *West. parte 2. symbol. titllo Indictments. sect. 68.* See *Cosening.*

Decenniers. See *Deciners.*

Deceptione, is a writ that lyeth properly against him that

deceitfully doth any thing in the name of another, for one that receiveth harm or damage therby. *Fitzb. nat. br. fo. 95.* This writ is either originall or judiciall, as appeareth by the *Old nat. br. fo. 50.* where you may reade the use of both. For some satisfaction, take these words of that booke: This writ of deceit, when it is originall, then it lieth in case, where deceit is made to a man by another, by which deceit hee may be disherited, or otherwise evill intreated: as it appeareth by the *Register, &c.* And when it is judiciall, then it lieth out of the Rolles of Record: as in case where (*scire facias*) is sent to the Sheriffe, that hee warne a man to be before the Iustices at a certaine day, and the Sheriffe returne the writ served: whereas the said man was not warned, by which the partie that sueth the (*scire facias*) recovereth, then the partie which ought to have beene warned, shall have the said writ against the Sheriffe. *The author of the Termes of law*, verbo *Deceit*, saith that the originall writ of deceit lieth, where any deceit is done to a man by another, so that he hath not sufficiently performed his bargaine or promise. In the writ judiciall he concurreth with the former booke. See the *Reg. orig. fo. 112.* and the *Reg. judic. in the table*, verbo *Deceptione.*

Decimis solvendis pro possessiōnibus alienigenarum, is a writ, or Letters Patents, yet extant in the Register, which lay against those, that had fermied the Priors aliens lands of the King, for the Rector of the Parish, to recover his tithe of them, *Register orig. fol. 179.*

*Deciners, alias, desiners, alias, doziners, (decenarii) commeth of the French dizeine. i. decas) ten in number, or else of (desiner. i. decessarchus.) It signifieth, in the ancient Monuments of our law, such as were wont to have the oversight and checke of ten Friburghs, for the maintenance of the Kings peace. And the limits or compasse of their jurisdiction was called (decenna) *Bracton, lib. 3. tract. 2. cap. 15.* of whom you may also reade, *Fleta, lib. 1. ca. 27.* and a touch in the *Regist. orig. fol. 68. b.* These seemed to have large authoritie in the Saxons time, taking knowledge of causes within their Circuit, and redressing wrongs by way of judgement, as you may reade in the lawes of King Edward, set out by *M. Lambert, num. 32.* In later times I find mention of these, as in *Britton, cap. 12.* who saith in the Kings person (as he writheth his whole book) in this manner: We will, that all those which be 14. yeares old, shall make oath, that they shall be sufficient and loyall*

unto us, and that they will be neither Felons, nor assenting to Felons: and we will, that all be (*en dozeine & plevis per dozeniers*) that is, professe themselves to be of this or that dozein, and make or offer suretie of their behaviour by these or those dozeniers: except Religious persons, Clerks, Knights, and their eldest Sonnes, and women. Yet the same Author in his 29. chapter, something toward the end, doth say, that all of twelve yeares old, and upward, are punishable for not comming to the Turne of the Sheriffe, Except Earles, Prelates, Barons, Religious persons, and women. *Stawnf. pl. cor. fol. 37.* out of *Fitzb.* hath these words: The like Law is, where the dozeniers make presentment, that a Felon is taken for felonie, and delivered to the Sheriffe, &c. And *Kirchin* out of the Register, and *Britton*, saith thus: Religious persons, Clerks, Knights, or women, shall not be Deceniers, *fol. 33.* So that hereby I gather, that of later times, this word signifieth nothing but such an one, as by his oath of loyaltie to his Prince, (for suretie none ordinarily findeth at these dayes) is settled in the combination or societie of a Dozein. And a Dozein seemeth now to extend so farre, as every Leet extendeth: because in Leetes onely this oath is ministred

ministr'd by the Steward, and taken by such as are twelve yeares old and upwards, dwelling within the compasse of the Leete where they are sworn, *Fitzb. nat. br. fol. 161.* A. The particulars of this oath you may reade in *Bracton, lib. 3. tract. 2. cap. 1. nro. 1.* in these words : *Quibus propositis* (that is, the Commission of the Justices being read, and the cause of their comming being shewed) *debent Justiciarii se transferre in aliquem locum secretum, & vocatis ad se quatuor vel sex, vel pluribus de majoribus de comitatu, qui dicuntur Busones Comitatus, & ad quorum numerum dependent vota aliorum, & sic intersé tractatum habeant Justiciarii ad invicem, & ostendant qualiter à Domino Rege & eius concilio prouisum sit, quod omnes tam milites, quam ali qui sunt quindecim annorum & amplius, jurare debent, quod utrilibet, murditores, rabbatores, & burglatores non receperint, nec eis consentient, nec eorum receptatoribus, & si quis tales noverint, illos attachiari facient, & hoc Vicecomiti & balivis suis monstrabunt : & si huc sum vel clamorem de talibus audiverint, statim auditio clamore, sequuntur cum familia & omnibus de terra sua.* Heere *Bracton setteth downe fifteene yeares for the age of those that are sworne to the Kings peace, but lib. 3. tract. 2. cap. 11.*

nro. 5. he nameth 12. yeares. See Inlaughe. A man may note out of the Premisses, diversities betweene the ancient, and these our times, in this point of law and governement, as well for the age of those that are to be sworne, as also that *Decennier* is not now used for the chiefe man of a *Dozen*, but for him that is sworne to the Kings peace : and lastly, that now there are no other Dozens but Leetes, and that no man ordinarily giveth other securitie for the keeping of the Kings peace, but his owne oath : and that therefore none answereth for anothers transgression, but every man for himselfe. And for the generall ground this may suffice. See *Franchise-pledge.*

Declaration (declaratio) is properly the shewing forth, or laying out of an action personall in any suit, howbeit, it is used sometime, and indifferent for both personall and reall actions. For example, *anno 36. Ed. 3. cap. 15.* in these words : By the ancient termes and formes of declarations, no man shall be prejudiced : so that the matter of the action be fully shewed in the demonstration, and in the writ : See the new Termes of law. See *Cownte.*

Dedimus potestatem, is a writ, whereby commission is given to

a private man for the speeding of some act appertaining to a Judge. The Civilians call it (*Delegationem.*) And it is granted most commonly upon suggestion that the partie, which is to doe something before a Judge, or in Court, is so feeble, that he cannot travell. It is used in divers cases : as to make a personall answer to a Bill of complaint in the Chaucerie, to make an Attorney for the following of a suit in the Countie, Hundred, Wapentake, &c. *Old nat. br. fol. 20.* To levie a Fine, *West. par. 2. symbol. titulus Fines, sect. 112.* and divers other effects, as you may see by *Fitzb. nat. br.* in divers places noted in the *Index* of the Booke : In what diversitie of cases this writ or commission is used, see the table of the *Regist. orig. verbo. Dedimus potestatum.*

Deedes (Facta) signifie in our common law writings, that containe the effect of a contract made betweene man and man, which the Civilians call (*Literatum obligationem.*) And of Deeds there be two sorts, deeds indented, and deeds poll. Which division, as *M. West.* saith parte 1. *Symbol. lib. 1. sect. 46.* groweth from the forme or fashion of them ; the one being cut to the fashion of teeth in the top or side, the other being plaine. And the definition of a deed indented, hee

expresseth thus, *Seet. 47.* A deed indented, is a deed consisting of two parts, or more, in which it is expressed, that the parties to the same deed, have to every part thereof interchangeably, or severally, set their severall seales. See the rest, where at the last, hee sheweth the cause of the name : viz. for that consisting of more parts, each part is indented, or cut one of them into the other, that by the cut it may appeare, they belong to one busynesse, or contract. A deed poll, or polled, hee describeth thus : *Seet. 46. Q.* A polled deed, is a deed testifying, that onely the one of the parties to the bargaine, hath put his seale thereunto, after the manner thereby him described : which reade for your better understanding. See the new Tearmes of law, *verbo Fair,* where hee sheweth, that each deed consisteth of three points : writing, sealing, and delivery.

Deere Hayse, anno 19. H. 7. cap. 11. seemeth to be an Engine of cords, to catch Deere.

Defendit quantum de telonio, is a writ that lyeth for them which are by privilege freed from the payment of tolle, which reade at large in *Fitzb. nat. br. fo. 226.*

Defalt (Defalta) commeth from the French (*Defaut*) and is an offence, in omitting that which

which wee ought to doe. *West.*
part. 2. symbol. titulo Indictment.
sect. 2. Of this hath *Bracton* a
whole Tractate, lib. 5. tractat. 3.
By whom it appeareth that a
default is most notoriously ta-
ken for non appearance in Court,
at a day assigned. Of this you
may reade also in *Fleta.* lib. 6.
cap. 14.

Desisaunce (*desisauntia*) com-
meth of the French (*Desfaire*) or
Desfaire i. *infectum reddere quod*
factum est, and signifieth in our
Common Law, nothing but a
condition annexed to an act, as
to an obligation, a recognisance
or Statute, which performed by
the Obligee or Recognizee, the
Act is disabled and made void,
as if it never had bin done, where-
of you may see *West.* at large,
part. 1. symb. lib. 2. Sect. 156.

Defendant (*defendens*) is he that
is sued in an action personall:
as Tenant, is he which is sued in
an Action real. *Termes of the*
Law.

Defendemus, is an ordinary
word in a feofment or donation,
and hath this force, that it bindeth
the Donour and his heires, to de-
fend the Donee, if any man goe
about to lay any servitude upon
the thing given, other then is
contained in the donation. *Brac-*
ton. lib. 2. cap. 16. num. 10. See
also *Warrantizabimus & Aqui-*
etabimus.

Defender of the Faith (*defensor*
fidei) is a peculiar Title given to
the King of England by the Pope,
as (*Catholicus*) to the King of
Spaine, and *Christianissimus* to
the French King. It was first given
by *Leo Decimus* to King *Henry*
the 8. for writing against *Martin*
Luther, in the behalfe of the
Church of *Rome*, then accounted,
Domicilium fidei Catholicae. *Stow's*
annals, pag. 863.

Deforsour (*deforciator*) com-
meth of the French (*Forcenr.* i.
expugnator.) It is used in our
common Law, for one that over-
commeth and casteth out by
force, and differeth from dissei-
four first in this, because a man
may disseise another without
force, which act is called simple
disseisin. *Britton.* cap. 53. next, be-
cause a man may deforce ano-
ther, that never was in posses-
sion: as for example, if more have
right to lands, as common heires,
and one entring keepeth out the
rest, the Law saith, that hee de-
forceth them, though he doe not
disseise them. *Old. nat. br. fol.*
118. and *Littleton* in his Chapter
(*Discontinuance*) fol. 117. saith,
that he which is enfeoffed by the
Tenant in taile, and put in pos-
session, by keeping out the Heire
of him in reversion being dead,
doth deforce him, though he did
not disseise him; because hee en-
tered, when the Tenant in taile

was living, and the heire had no present right. And a Deforsor differeth from an intrudour, because a man is made an Intrudour by a wrongfull entry onely into land or tenement voide of a possessor. *Braetton. lib. 4. ca. pri.* and a deforsour is also by houlding out the right heire, as is aboveaid.

Deliverances. See *Repligiare.*

Demand, (*demandi vel demandum*) commeth of the French (*Demande*; *i. postulatio, postulatus*) and signifieth a calling upon a man for any thing due. It hath likewise a proper signification with the common Lawyers opposite to plaint. For the pursuite of all civill actions are either demands or plaints : and the persuer is called Demaundant or Plaintiff: *Viz.* Demaundant in actions reall, and Plaintiff in personall. And where the partie persuing is called Demaundant, there the partie persued is called tenant: where Plaintiff, there defendant. See *Termes of Law*, *verb. bo Demandant.*

Demy baqe. See *Haque*, and *Haquebut.*

Demaine, (*Dominicum*) is a French word, otherwise written (*Domaine*) and signifieth (*Patrimonium domini*) as *Hotoman saith*, *in verbis feudalibus verbo Dominicum*, where by divers authorities hee proveth those Lands to be

dominicum, which a man holdeth originally of himselfe and those to be *feodum*, which he holdeth by the benefite of a superiour Lord. And I finde in the Civill Law (*Rem dominicam*) for that which is proper to the Emperor. *Cod. Ne rei dominica vel templorum vindicatio temporis prescriptione submoveatur*, being the 38. title of the 7. booke. And (*Res dominici juris. i. reipub.*) in the same place. And by the word (*Domanium*) or (*Demanum*) are properly signified the Kings lands in *Fraunce*, appertaining to him in propertie, *Quia Domanium definitur illud, quod nominatim consecratum est, unitum & incorporatum Regie corone, ut scripsit Chepinus de domanio Francie tit. 2. per legem. Si quando 3. Cod. de bon. vacan. lib. 10. & Mathaeus de Afflictis in constit. Sicilie li. 1. tit. De locatione Demanii, 82.* which may be called, *Bona incorporata & in corpus fisci redditiva, Skene de verborum signif. verb. Terra Dominales.* In like manner doe we use it in *England*: howbeit wee here have no land (*the Crowne land onely excepted*) which holdeth not of a Superior. For all dependeth either mediately or immediatly of the Crowne, that is, of some honour or other belonging to the Crowne, and not graunted in fee to any inferiour person. Wherefore no common person hath

hath any demaines, simply understood. For when a man in pleading, would signifie his land to be his owne, he saith, that he is or was seised thereof in his demaine as of fee. *Littleton, lib. i. cap. 1.* Whereby hee signifieth, that though his land be to him and his heires for ever, yet it is not true demaine, but depending upon a superior Lord, and holding by service, or rent in lieu of service, or by both service and rent: Yet I find these words used in the Kings right, anno 37. H. 8. cap. 16. and 39. Eliz. cap. 22. But the application of this speech to the King and crowne land, is crept in by error and ignorance of the word (*Fee*) or at least, by understanding it otherwise then of the Feudists it is taken. But *Britton, cap. 78.* sheweth, that this word (*demeine*) is diversly taken: sometime more largely, as of lands or tenements held for life, &c. and sometime more strictly, as for such onely as are generally held in fee. This word sometime is used for a distinction betweene those lands, that the Lord of a Manor hath in his owne hands, or in the hands of his Leasfee, dismissed upon a rent for tearme of yeares or life, and such other land appertaining to the said Manor, which belongeth to free, or copy-holders. Howbeit, the copy-hold belonging to any Ma-

nor, is also in the opinion of many good Lawyers accounted Demaines: *Bracton* in his fourth Booke, tract. 3. cap. 9. nu. 5. hath these words: *Item dominicum accipitur multipliciter. Est autem dominicum quod quis habet ad mensam suam & propriè, sicut sunt Bordlands anglicè. Item dicitur dominicum villenagium, quod traditur villanis, quod quis tempestivè & intempestivè sumere possit pro voluntate sua, & revocare.* Of this *Fleta* likewise thus writeth: *Dominicum est multiplex. Est autem Dominicum propriè terra ad mensam assignata, & villenagium quod traditur villanis ad excolendum, & terra precario dimissa, quæ tempestivè & pro voluntate domini poterit revocari: & sicut est de terra commissa, tenenda quam diu commissori placuerit, poterit & dici Dominicum, de quo quis habet liberum tenementum, & alius usurpatum: & etiam ubi quis habet liberum tenementum, & alius curam, sicut de custode dici poterit & curatore; & unde unus dicitur à jure, alius quoque ab homine. Dominicum etiam dicitur ad differentiam ejus quod tenetur in servitio. Dominicum est omne illud tenementum, de quo antecessor obiit seisisitus ut de feudo, nec refert cum usurpatu vel sine, & de quo si ejectus esset, si viveret, recuperare posset per assidam nomine disseisire, licet alius haberet usum*

*fructum: sicut dici poterit de illis qui
tenent in villenagio, qui utuntur,
frumentis non nomine proprio sed no-
mine Domini sui.* *Flet. l. 5.c.5. sect.*
Dominicum autem. And the reason
why Copyhold is accounted De-
meanes, is because they that be te-
nents unto it, are judged, in law,
to have no other right, but at the
will of the Lord. So that it is re-
puted still after a sort to be in
the Lords hands. And yet in
common speech, that is called
ordinarily Demeanes, which is
neither free nor copy. It is far-
ther to be noted, that Demaine
is sometime used in a more spe-
ciall signification, and is opposite
to Franck fee. For example,
those lands, which were in the
possession of King Edward the
Confessour, are called Ancient
Demaine, and all others be called
Franck fee. *Kitchin. fol. 98.* And
the tenents which hold any of
those lands, be called tenents in
Ancient Demaine, the others te-
nents in Franck fee. *Kitchin ubi
supra.* And also tenents of the
common Law, *Westm. parte 2.*
Symbol. titulo Fines. Sect. 25. The
reason is, because tenents in An-
cient Demaine, cannot be sued
out of the Lords court: Termes
of the Law. *Verbo Ancient De-
maine.* And the tenents in An-
cient Demaine, though they hold
all by the verge, and have none
other evidence, but copy of Court

rolle, yet they are said to have
Free hold, *Kitchin fol. 81.* See
Ancient Demaine.

Demaine cart of an Abbot, see-
meth to be that Cart, which the
Abbot useth upon his owne De-
maine. *Anno 6. H. 3. cap. 21.*

Demurrer (demorare) com-
meth of the French (*demeurer. i.
manere in aliquo loco vel morari*)
It signifieth in our common
law, a kind of pausse upon a
point of difficultie in any ac-
tion, and is used substantively. For
in every action, the controversie
consisteth either in the fact, or in
the law: If in the fact, that
is tried by the Iurie; if in law,
then is the case plaine to the
Judge; or so hard and rare, as
it breedeth just doubt. I call that
plaine to the Judge, wherein
he is assured of the law, though
perhaps the partie and his coun-
cill yeeld not unto it. And in
such, the Judge with his Associats
proceedeth to Iudgement with-
out farther worke: but when it is
doubtfull to him and his Affiliates,
then is there stay made, and
a time taken, either for the Court
to thinke farther upon it, and to
agree if they can: or else for all
the Iustices to meet together in
the Chequer chamber, and upon
hearing of that which the Serge-
ants shall say of both parts, to
advise, and set downe what is
law. And whatsoever they con-
clude,

clude, standeth firme without farther remedie, *Smith, de Repub. Anglo: lib. 2. cap. 13.* West calleth it a *Demurrer* in Chancery likewise, when there is question made whether a parties answer to a Bill of Complaint, &c. be defective or not: and thereof reference made to any of the Bench, for the examination thereof, and report to be made to the Court, *parte 2. symb. tit. Chancery. Sect. 29.*

Denariata terræ. See *Farding-deale of land.*

Denizen, commeth of the French (*donaison i. danatio.*) And signifieth in our common law, an Alien that is infranchised here in *England* by the Princes Charter, and inabled, almost in all respects, to doe as the Kings native subjects doe, namely, to purchase, and to possesse lands, to be capable of any office or dignitie. Yet it is said to be short of naturalisation, because a stranger naturalised, may inherit lands by descent, which a man made, onely a Denizen cannot. And againe, in the Charter whereby a man is made Denizen, there is commonly contained some one clause or other, that abridgeth him of that full benefit, which naturall subjects doe enjoy. And when a man is thus infranchised, hee is said to be under the Kings protection; or, *Esse ad fidem*

Regis Anglie, before which time hee can injoy nothing in England. *Braffton, lib. 5. tract. 5. cap. 25. nro. 3.* Nay, he and his goods might be seised to the Kings use, *Horn in his mirror of Justices, lib. 1. cap. de la Venue de franc plege.*

Deodand (*deodandum*) is a thing given or forfeited (as it were) to God for the pacification of his wrath in a case of misadventure, whereby any Christian soule commeth to a violent end, without the fault of any reasonable Creature. For example, if a horse should strike his keeper, and so kill him: If a man in driving a cart, and seeking to redresse any thing about it, should so fall, as the cart wheele running over him, should presse him to death: If one should be felling of a tree, and giving warning to company by, when the tree were neere falling, to looke to themselves, and any of them should be slaine nevertheless by the fall of the tree. In the first of these cases, the horse: in the second, the cart wheele, cart and horses: and in the third, the tree is to be given to God: that is, to be sold and distributed to the poore, for an expiation of this dreadfull event, though effected by unreasonale, yea, senslesse and dead creatures. *Stawnf. pl. cor. lib. 1. cap. 2.* whereof

also read *Bracton*, lib. 3. tract. 2.
cap. 5. and *Britton*, cap. 7. and
*West. parte 2. symbolog. titulo Indi-
cgments. Sect. 49.* And though
this be given to God: yet is it
forfeited to the King by law, as
sustaining Gods person, and an
executioner in this case, to see
the price of these distributed to
the Poore, for the appeasing of
God, stirred up even against the
earth and place, by the shedding
of innocent bloud thereupon.
Fleta saith that this is sould, and
the price distributed to the poore,
for the soule of the King, his
Auncesters, and all faithfull
people departed this life, lib. 1.
cap. 25. verbo. *De submersis.*
And it seemeth that this law hath
an imitation of that in *Exodus*,
cap. 21. *Si cornu petierit bos vi-
rum vel mulierem, ita ut moria-
tur, lapidabitur bos, neq; comedet-
tur caro ejus, at Dominus ejus erit
innocens.*

*De Deoneranda pro rata portio-
nis*, is a writ that lieth where
one is distrained for a rent, that
ought to be paid by others pro-
portionally with him. For exam-
ple, a man holdeth ten Oxegangs
of land by fealtie, and ten Shil-
lings rent of the King, and alien-
ateth one Oxegang thereof to
one, another to another in fee. Af-
terward the Sheriffe or other of-
ficer commeth, and straineth
only one of them for the rent:

hee that is distrained may have
this writ for his helpe. *Fitzb. nat.
br. fol. 234.*

Departier, is a word properly
used of him, that first pleading
one thjng in barre of an action,
and being replyed therunto,
doth in his rejoynder, shew another
matter contrary to his first
plea. *Plowden in Reniger.* and
Fogassa, fol. 7. & 8. And of this see
divers examples in *Broke, titula
Departier de son plee, &c.*

Departiers of Gold and Silver.
See *Finours.*

De quibus sur disseisin, is a writ
of entry. See *Fitzb. nat. br. fol.
191. C.*

Dereyne (*disfrationare, vel dira-
tionare*) may seeme to come of
the French (*disarmyer. i. confus-
dere, turbare*) to confound or
turne out of order, or (*desranger. i.
to set out of order, or lastly of the
Norman word (*desrene*) for with
the Normans (*desrene*) is nothing
else but a prooef of the deniall
of a mans owne fact. For *Rubig-
neus in his grand custumarie. cap.
122, & 123.* maketh mention of
(*lex probabilis*) and (*lex deraif-
nia*) *legem probabilem* or (*proba-
tionem*): hee defineth to bee a
prooef of a mans owne fact,
whiche he saith he hath done, and
his adversary denieth. His exam-
ple is this: *A. sueth R. for a
Hog: saying, thou shouldest de-
liver me a Hog for two shillings
fixe**

fixe pence : which money F. paid thee : wherefore I demand my Hog. R. answereth : It is true that thou sayest, and I delivered thee thy Hog, which I am ready to prove. *Deraisniam* he defineth, to be a proofe of a thing, that one denieth to be done by himselfe ; which his adversarie saith was done, defeating or confounding his adversaries Assertion (as you would say) and shewing it to be without, and against reason or likelihood, which is avouched. In our common law it is used diversly, first generally, for to prove : as *Dirationabit jus suum heres propinquior.* *Glanvil.* li. 2. cap. 6. and *Habeo probos homines, qui hoc viderunt & audierunt, & parati sunt hoc dirationare.* *Idem lib. 4. cap. 6.* and (*Dirationavit terram illam in curia mea.*) *Idem lib. 2. cap. 20.* i. hee proved that land to be his owne, &c. And (*pertinentiam eam dirationavit in vita sua, vel alio modo justè perquisivit*) *Idem. lib. 6. cap. 12.* and *Braeton* useth it after the same sort, in these words : *Habeo sufficientem disputationem & probationem.* *lib. 4. tract. 6. cap. 16.* and so he useth (*disputationare*) *lib. 4. cap. 22.* and so in *Westm. 2. anno 13. Ed. pri. cap. 32.* and to de-reine the warrantie *Old nat. br. fol. 146.* and to dereine the warrantie *Paramount, an. 31. H. 8. ca. primo.* And *dereigner.* le *Warranty* in

Plowd. casu Basset in fine 2. partis fol. 6, 7, & 8. a. hath the same signification. So it is used, *Westm. 2. cap. 5. anno 13. Ed. 1.* in these words : And when the person of any Church is disturbed to demand Tithes in the next Parish, by a writ of (*Indicavit*) the patron of the Parson so disturbed to demand Tithes, shall have a writ, to demand the Advowsen of the Tithes, being in demand : and when it is deraigned, then shall the plee passe in the Court Christian, as farre forth as it is deraigned in the Kings Court. *Braeton also, lib. 3. tract. 2. cap. 3. num. 1.* speaking of him that appealeth another for any Treaton or Felony, hath these words : *Proponat accusans appellum suum in bunc modum, sc: debet dicere se interfuisse, & vidisse certo loco, certo die, certa hora, & scivisse ipsum accusatum prelocutum fuisse mortem regis, vel seditionem suam, vel exercitus sui, vel consensisse, vel auxilium & consilium impendisse, vel ad hoc autoritatem praestitisse: & hoc ego juxta considerationem curiae disputationare paratus sum.* He useth it likewise as the *Normans* use, (*Disputationam*) for him, that offereth to justifie his deniall : as *lib. 3. tract. 2. cap. 28. nu. 1.* in these words : *Rex consilio Episcoporum & bonorum visit propter comitem, ut statuto die veniret ad curiam, ad disputationandum vel defendendum,*

se, si posset. Lastly, in some places I find the substantive (*dereinement*) used in the very literall signification of the French (*disrayer*) or (*desfranger*) that is, as a man would say, turning out of course, displacing or setting out of order: as *dereinement* or departure out of Religion, anno 31. H. 8. cap. 6. and *dereinment* or discharge of their profession, anno 33. H. 8. cap. 29. which is spoken of those Religious men, which forsooke their orders and professions: as also anno 5, & 6. Ed. 6. cap. 13. So doth Kitchin use the verb; fol. 152. in these words: The Leaffe entreth into Religion, and afterward is dereigned. And Britton useth these words (*Semounse desrenable*) for a summons that may be challenged as defective, or not lawfully made, cap. 21. Of this you may reade something more in *Skene de verb. signif. verbo Diffratione*, where in one signification hee contouadeth it with our waging and making of law.

De son tort demesne, seeme to be certaine words of forme in an action of trespass, used by way of reply to the plee of the Defendant. For example: *A.* sueth *B.* in action of trespass. *B.* answereth for himselfe, that he did that which *A.* calleth a trespass, by the commandement of *C.* his Master. *A.* saith againe, that *B.*

did it *de son tort demesne*, sans ceo que. C. ly commanda mode & forma: that is, *B.* did it of his owne wrong, without that that *C.* commanded him in such forme, &c.

Detinet. See *Debito* and *Debet.*

Detinew (*detinendo*) is a writ that lyeth against him, who having goods or chatels delivered him to keepe, refuseth to deliver them againe. See of this *Fitzb. nat. br. fol. 138.* To this is answerable in some sort (*actio depositi*) in the civil law. And hee taketh his action of *detinue*, that intendeth to recover the thing delivered, and not the dammages sustained by the *detinew*. *Kitchin, fol. 176.* See the new booke of Entries, verbo, *Detinew*.

Devastaverunt bona testatoris, is a writ lying against Executors, for paying Legacies and Debts without specialties, to the prejudice of the creditours that have specialties, before the debts upon the said specialties be due. For in this case, the Executors are as liable to action, as if they had wasted the goods of the Testatour riotously or without cause. New termes of law.

Devest (*devestire*) is contrary to *Invest*. For as *Investire* signifieth *possessionem tradere*. So (*devestire*) is (*possessionem auferre*) *feud.*

libre. priue, cap. 7.

*Devise, alias divisio, commeth of the French (diviser, i. dispertiri, discernere, separare, distinguer) as (diviser par ci & par la distributio.) This word is properly attributed in our Common Lawe to him, that bequeathes his goods by his last Will or Testament in writing: and the reason is, because those that now appertaine only to the *Deviseur*, by this act are distributed into many parts. Wherefore, I thinke it better written *divisi* then *divisi*, howbeit it were not absurd, to derive this word from the French (diviser) i. servitio vari, fabulari, consilium conferre. For in this sence it agreeth in some sort with the nature of the act of the Testator, and with the Eymology of a Testament set downe by Justinian, who saith, that *testamentum* is (quasi mentis testatio titulo de teste ordinata in institut.) and, *testatio mentis* cannot be so well, as by talke and conference with our wife and skifull friends.*

Devoires of Cales, anno 2. R. 2. Stat. 1, cap. 3, & anno 5. ejusdem, Stat. 2, cap. 2, were the customes due to the King for Merchandise brought too or carried out from Cales, when our Stable was there. The word is French, signifying as much as (officium) dutie.

*Divorce, alias divorce (divorci-um) is with our Common Lawyers, accounted that separation betweene two *de facto* married together, which is a vinculo matrimonii, non solum a mensa & thoro. And therefore the woman so divorced, received all againe that shee brought with her. This is not, but only upon a nullity of the marriage through some essentiall impediment, as consanguinitie or affinitie within the degrees forbidden, precontract, impotencie, or such like. See the new Tarmes of Law.*

Diem clausit extrellum, is a Writ that lyeth for the Heire of him, that holdeth Land of the Crowne, either by Knights service, or in socage, and dyeth, before he under or at full age, directed to the Escheator of the County, for inquierie to bee made by him, of what estate the partie defased was seised, and who is next heire unto him, and of what value the land is. The forme thereof and other circumstances you may learte in Fitzb. nat. br. fol. 251.

Dyer, war a learned Lawyer, and Lord Chief Justice of the Common Pleas, in the dayes of Qneene Elizabeth: who writ a Booke of great account, called his Commentaries or Reports.

Dies datum, is a respight given to the Tenant or Defendant be-

fore the Court. *Brooke titulo Continuance.*

Dicker of Leather, is a quantitie consisting of tenne hides. The name may seeme to come from the Greek (*decas*) which is also a Latine word signifying tenne in number.

Dignity Ecclesiastical (*dignitas Ecclesiastica*) is mentioned in the Statute anno 26. H.8. cap. 3. and is by the Canonists defined to be *ad- ministratio cum jurisdictione & po- testate aliqua conjuncta. Glos. in ca. i. de confut. in sexto.*) whereof you may reade divers examples in *Duarynus de sacris Eccles. minist. & benefic. lib. 2. cap. 6.*

Dioces (*diœsis*) is a Greek word compounded of (*δια*) and (*οίκους* ,) and signifieth with us, the circuit of every Bishops jurisdiction. For this Realme hath two sorts of divisions, one into Shires or counties, in respect of temporall policie, another into Diocesses in respect of jurisdiction Ecclesiastical.

Diet a rationabilis, is in *Braetton* used for a reasonable dayes journey. *lib. 3. parte 2. cap. 16.* It hath in the Civile Law divers other significations, not needfull heere to be set downe. *v. vocab. utrinque juris.*

Dimibaquer. See Haque.

Disalt, signifieth as much as to disable. *Littleton in his Chapter of Discontinuance.*

Disceite, See *Deceit and decep- time.* See the new booke *Entrie, verbo Disceit.*

Discent (*Discensus*) in the French (*Descente*) signifieth in the Common Law, an order or means whereby Lands or Tene- ments are derived unto any man from his Ancestors : as to make his dissent from his Ancestors : *Old nat. br. fol. 101.* is to shew how and by what degrees, the Land in question came to him from his Auncestours : as first from his great Grandfather, to his Grandfather, from his Grandfather to his Father, and so to him. Or in such other like sort : This dissent is either lineall or collaterall. Lineall dissent is conveyed down- ward in a right line from the Grandfather, to the Father, and from the Father to the Sonne, and from the Sonne to the Nephew, &c. Collaterall dissent is spring- ing out of the side of the whole blood : as Grandfathers brother, Fathers brother, &c. See the new *Tearmes of Law.*

Disclaimer (*Disclamum*) is a ple containing an expresse deniali or refusall : as if the tenant sue a Replevin upon a Distresse taken by the Lord, and the Lord avow the taking of the distresse, saying that he holdeth of him as of his Lord, and that he disreined for rent not paid, or ser- vice not performed : then the Tenant

Tenant denying himselfe to hold of such Lord, is said to disclaime: and the Lord proving the Tenant to hold of him, the Tenant leefeth his Land. Tearnmes of Law. Of this see *Skene de verb. signif. verbo Disclamacione.* Also if a man denie himselfe to be of the blood or kindred of another in his plee, he is said to disclaime his blood: *Fitz.nat. br. fol. 197. G.* See *Brook titulo Disclaimer.* If a man arraigned of Felony doe disclaime goods, being cleared hee leefeth them. *Stawnf. pl. cor. fol 186.* See the new Booke of Entries. *verbo, Disclaimer.*

Discontinuance (*Discontinuatio*) commeth of the French (*Discontinuer*) i.e. *cessare, intermittere*) and signifieth in the Common Law, nothing else but an interruption or breaking off: as discontinuance of possession, or discontinuance of proces. And the large discourse that *Littleton* hath about this (*Discontinuance*) is rather to shew cases wherein it is or wherein it is not, then to define the thing. The effect of discontinuance of possession is this, that a man may not enter upon his owne Land or Tenement alienated, whatsoever his right bee unto it, of his owne selfe, or by his owne authoritie, but must bring his Writ, and seek to recover possession by Law. Examples you may have store in his Tearnmes

of Law, *verbo Discontinuance.* And in *Littleton codem capite*, with whom agreeth another in these words: But discontinuance of Possession, is indeede an impediment to a man for entring into his owne Land or Tenements, caused by the fact of one, that alienated them contrary to right, and gave Livery and Seisin of them, whereby the true owner is left only to his action. See the new Tearnmes of Law, and the Institutes of the Common Law, *cap. 43.* and see *S. Ed. Cokes Reports, l. 3. the Case of Fitzs, fol. 85. b.* The effect of discontinuance of plee is, that the instance is fallen, and may not be taken up againe, but by a new Writ to begin the Suit a fresh. For to bee discontinued, and to be put without day, is all one; and nothing else, but finally to be dismissed the Court of that instance. *West. parte 2. Symbol. tit. Fines. sect. 115.* So *Crompton* in his divers Jurisdictions, *fol. 131.* useth it in these words: If a Justice seat be discontinued by the not comming of the Justices, the King may renew the same by his Writ, &c. In this significatiōn, *Fitzherb.* in his *nat. br.* useth the word divers times: as discontinuance of a corody, *fol. 193.* A. To discontinue the right of his wife, *fol. 191.* L. & 193. L. Discontinuance of an assise, *fol. 182.* D. 187. B.

Disgrading (*Degradatio*) is the punishment of a Cleare that being delivered to his Ordinarie, cannot purge himselfe of the offence, whereof hee was convicted by the Jurye: and is nothing but the deprivation of him from those orders of Clerkship that hee had, as Priesthood, Deaconship, &c. Stanf. pl. cor. fol. 137. & 138. There is likewise disgrading of a Knight, *Stowes Annals* pag. 865. And it is not to be omitted, that by the Canon law, there bee two sorts of disgrading: one summary by word onely, and another solemne by devesting the party degraded of those Ornaments and Rites, which be the ensignes of his Order or Degree.

Dimes (*Decimis*) is made of the French (*Decimes*) and signifieth tithe or the tenth part of all the fraites, either of the earth, or beastes, or our labour, due unto God, and so consequently to him that is of the Lords lot, and hath his share: viz. our Pastour. It signifieth also the tenthes of all Spirituall livings, yearly given to the Prince (called a perpetuall *Disme*. anno 2. & 3. *Edw.* 6. cap. 35.) which in ancient times, were paid to the Pope, untill Pope *Urbane* gave them to *Richard* the second, to aide him against *Charles* the French King, and those other that upheld *Clement*

the seventh against him. *Polidor Virgil. Angl. hist. lib. 20.* Lastly, it signifieth a tribute leived of the Temporalitie. *Holinshed in Henry 2. fol. 111.*

Distaragement, *Disparagatio*, is by our Common Lawyers, used especially for matching at heire in marriage under his or her degree, or against decencie. See my *Institutes, titlo de mptiis*. §. 6.

Diseisin (*Diseisne*) commeth of the French (*Diseisne*) and signifieth in the Common Lawe, an unlawfull dispossessing of a man of his land, tenement or other immoveable or incorporeall right, *Institut. of the Com. Lawe*, cap. 15. And how farre this extendeth, See *Bracton, libro quarto*, cap. tertio. And therefore the Assises bee called Writs of diseisin, that lye against diseisours, in any case, whereof some bee termed little Writs of diseisin, being *vicinie*, that is, sueable before the Sherrife in the County Court, *Old nai. br. fol. 109.* because they are determined by the Shyreeve without assise. *Register Original. fol. 198. b.* as for Nuissances of no great prejudice. *Diseisin* is of two sorts; either simple diseisin, committed by day without force and arms. *Bracton. li. 4. cap. 4. Briton. cap. 42. & 43. & 44.* where you shall finde in what especially it is lawfull, in what not *Britton. cap. 53.* And *Diseisin* by force

force, for the which see *Desfessor*. See *Fresh distres*. See *Rdistres*, and *Post distres*. See *Scelte de verbo signific. verbo distres*. *Distres* how many wayes it is committed. See *Fleta*, lib. 4. ca. 1. q. *Fit autem, &c.* and when it is lawfull, cap. 2.

Distres (*distretio distretus*) commeth of the french (*distresse, angustie*). It signifieth most commonly in the common law, a compulsion in certame real actions, whereto bring a man to appear in Court, or to pay debt or dñe defied. The effect wherof most commonly is, to drive the party distreined to replevie the distresse, and so to take his action of trespass against the distreiner, or else to compound neighbourly with him for the debt or dñe, for the whiche he distreineth. In what cases a distress is lawfull, see *The new termes of law*. The Civilians call it (*pignorum captiōnem*). *Brissonius de verbo signific.* lib. 14. This compulsion is by *Britton*, ca. 71. divided into a distresse personal, and distresse real: distresse personal, is made by surprising a mans moveable goods, and detaining them for the security of his appearance to the suit, and to make him Plaintiff. A distresse real, is made upon immoveable goods, as the *Grand Cap* & *Petit Cap.* And thus it is interpreted

by *Hottomon de verb. feudal. verbo distretus*. This differeth from an Attachment in this point (among others) that a Distresse cannot bee taken by any common person, without the compasse of his owne fee, *Fitzherb. nat. br. fol. 904.* except it bee presently after the catell or other thing, is driven or borne out of the ground by him that perceiveth it to be in danger to be distreined. *New termes of the law. verbo distress*.

Distretus, is sometime used for the circuit or territory within the which, a man may be thus compelled to appearance; *Cx. de Romanis de electione in Clem. and Cæffan de consuetud. Burgand. p. 90. Britton, ea. 720.* and so likewise in *Distretio* in the Register Originall. fol. 6. b. And so it seemeth to be used in *Papillaventil. par. 5. c. 22. Charta de foresta*. See also *Mynsing*, in the chapter, *licet etiam sibi extra ut probationibus. m. 5. and Basilius in his 16. councell. m. 47. Distress*, in the former signification, is divided first into finite and infinite. Finite is that which is limmited by law, how often it shall be made to bring the party to triall of the action, as once, twice. *Old hat. br. fol. 43. Distress infinite is without hination untill the party come: as against a Jurie that refuseth to appeare. Hypothecatamente Assisa,*

the processe is a (*venire facias*) (*habeas corpora*.) and distresse infinite, *O'dnat. br. fol. 113.* Then it is divided into a grand distresse, anno 52. *H. 3. ca. 7.* which *Fitzherbert calleth in Latine magnam distinctionem, nat. br. fol. 126. A.* and an ordinary distresse. A grand distresse is that, which is made of all the goods and chattels that the partie hath within the Countie, *Britton. cap. 26. fol. 52.* But see whether it bee sometime not all one with a distresse infinite, *Idem. fol. 80.* with whom also the Statute of *Marlebridge* seemeth to agree, anno 52. *H. 3. ca. 7. & cap. 9. & cap. 12.* See *Old nat. brev. fol. 71. b.* See grand distresse, what things be distreinable, and for what causes. See the *New Termes of Law. verbo Distresse.* Of this also see more in *Attachement.*

Distringas, is a Writ directed to the Sheriffe, or any other Officer, commanding him to distreine one for a debt to the King, &c. or for his appearance at a day. See great diversitie of this Writ in the Table of the Register judicall, *verbo distringat.*

Divise. See *Derise.*

Dividends in the Exchequer, seemeth to be one part of an Indenture, anno 10. *Ed. 1. ca. 11. & anno 28. ejusdem. Stat. 3. ca. 2.*

Divorce. See *Devorce.*

Docket, is a Briefe in writing,

anno 2. & 3. *Pb. & Mar. cap. 6. West.* writeth it (*Dogget*) by whom, it seemeth to be some small piece of paper or parchment containing the effect of a larger writing, *Symbol. parte 2. titulo Fines. Sect. 106.*

Doctor and Student, is a Booke containing certaine Dialogues, betweene a D. of Divinitie, and a Student at the Common Law, wherein are contained questions and cases, as well of the equity and conscience used in the common Law, as also a Comparison of the Civill, Canon, and Common Law together, very worthy the reading. The Author is laid by *D. Cosin* in his Apologie, to be a Gentleman, called *Saint German*. The Booke was written in the dayes of *H. 8.*

To doe law, (*facere legem*) is as much as to make law, *an. 23. H. 6. ca. 14.* See *Make.*

Dog draw, is a manifest deprehension of an offender against venison in the Forest. There be foure of these noted by *M. Manswood*, parte 2. of his Forest Lawes, *ca. 18. nn. 9. viz. Stable stand, Dog draw, Back beare, and Bloody hand.* *Dog draw*, is when one is found drawing after a Deere, by the sent of a Hound, that he leadeth in his hand.

Dogger, a kind of Ship, *an. 31. Ed. 3. Stat. 3. cap. pri.*

Doggerfish, *ibid. c. 2.* seemeth to be

be Fish brought in those Ships to Blackney haven, &c. Dogger men, anno 2. H. 8. ca. 4.

Dogget. See *Docket.*

Domo reparanda, is a writ that lyeth for one against his neighbor, by the fall of whose house hee feareth hurt toward his owne house, Reg. orig. fol. 153. for this point, The Civilians have the action *de domino in facto*.

Dole fish, seemeth to bee that Fish, which the Fishermen yearly employed in the North Seas, doe of custome receive for their allowance. See the statute, an. 35. H. 8. ca. 7:

Donative, is a Benefice meerly given and collated by the Patron to a man, without either presentation to the Ordinarie, or Institution by the Ordinarie, or Induction by his commandement, Fitzh. nat. br. fol. 35. E. See the statute, anno 8. R. 2. cap. 4. Of this Petr. Grigor. de beneficiis, cap. 11. nn. 10. hath these words: *Si tamen Capellania fundata per Laicos non fuerint a Dioecesano approbata, & ut (loquuntur) spiritualizata, non censerentur beneficia, nec ab Episcopo conferri posseant, sed sunt sub pia dispositione fundatoris.* Job. Fab. ad h. Nullius. De rerum divisi: Ideo fundatores & heredes eorum, possunt tales Capellanias donare sine Episcopo, cui voluerint, tanquam profana beneficia. Guido Papaeus descis. 187. See also Gregorius lib. 15. cap. 29.

sui syntagma: nn. 11. I finde in the Preface of M. Gwines readings, that as the King might of ancient times found a free Chappell, and exempt it from the jurisdiction of the Diocesan: so hee might also by his Letters Patents license a common person, to found such a Chappell, and to ordaine, that it shall be Donative and not presentable, and that the Chaplainne shall be depriveable by the founder and his heires, and not by the Bishop. And this is likest to be the originall of these *Donatives in England*. Fitzh. saith, that there be certaine Chauntries, which a man may give by his Letters Patents, nat. br. fol. 33. C. See him also, fo. 42. B. All Bishopricks were Donative by the King, Coke lib. 3. fol. 75. b.

Doomies day (Rotulus Wintonie) (domus Dei. Coke in prefatione ad librum suum) is a Booke that was made in King Edw. the Confessors dayes, as the Author of the Old nat. br. saith f. 15. containing in it not onely all the Lands through England, but also all the names of those, in whose hands they were at that time, when the booke was made. M. Lamberd in his explication of Saxon words (*verbō, Ius Dacorum, &c.*) proverth out of Gervasius Tilburiensis, that this Booke was made in William the Conquerours time: with whom agreeth M. Camden in his

his Britan, pag. 94. proving it out of *Ingulphus*, that flourished the same time. And for the better commendation of the Booke, it is not amisse to set downe the words of *Ingulphus*, touching the contents thereof. *Totum terram descripsit. Nec erat hyda in tota Anglia, quin uolorem ejus & possessorum scroxit, nec lacus nec locus aliquis, quin in Regis rotula extitit descriptus, ac ejus reditus & proventus, ipsa possessio, & ejus possessor regie notiz manifestatus, juxta taxatorum fidem qui electi de qualibet patria territorium proprium describebant. Iste rotulus vocatus est Rotulus Wintonie, & ab Anglia pro sua generalitate, quod omnia tenementa totius terre coniuncti (Domesday) cognominatur.* So it is called in the statute, anno pri. Ric. 2. cap. 6. And in *Ockhams lucubrations de fisci Regis ratione*, which seemeth to bee taken out of the Booke called (*Liber ruber*) in the Exchequer. It is termed, (*Liber Judicatorius*) and the reason why, *quia in eo totius Regni descriptio diligens continetur: & tam de tempore Regis Edwardi, quam de tempore Regis Willielmi, sub quo factus est, singularum fundorum valorem exprimitur.*

Dorture (*dormitorium*) anno 25. H. 8. ca. 11. is the common roome, place or chamber, where all the Friars of one covent slept, and lay all night.

Date assignans, is a writ that lieth for a Widow, where it is found by office, that the Kings tenent was seised of tenements in fee, or fee taile, at the day of his death, &c. and that hee holdeth of the King in chiefe, &c. For in this case the Widow commeth into the Chancerie, and there maketh oath, that shee will not marry without the Kings leaye, anno 15. Ed. 3. cap. 4. and hereupon she shall have this writ to the Escheatour; for which, see the Register Originall, fol. 297. and *Fitzherb. nat. br. ful. 263.* And this sort of Widowes is called the Kings Widow. See *Widow*.

Dote undenibilbabet, is a writ of Dower, that lieth for the Widow against the tenent, which hath bought land of her Husband in his life time, wherof bee was seised soley in fee simple, or fee taile, in such sort as the issue of them both might have inherited it, *Fitz. nat. br. ful. 147. Regist. ful. 170.*

Dotis admensuratio. See *Admensurement*. See the Register, fol. 171.

Dotkins, a kind of Coine, pl. cor. fol. 37. It seemeth to come of the Dutch word, *Duytken*, that is, the eighth part of a *Stufer*, or French *Shilling*, which in Latine is called *Solidus Gallicus*.

Doubles, anno. 14. H. 6. cap. 6.
signifie as much as letters Patents,
being as it seemeth a French
word made of the Latine (*diploma.*)

Double plee, (duplex placitum)
is that, wherein the defendant
allegeath for himselfe two severall
matters, in barre of the action
whereof either is sufficient to
effect his desire in debarring the
plaintiffe. And this is not to bee
admitted in the Common Law :
wherefore it is well to bee obser-
ved, when a plee is double, and
when it is not. For if a man al-
ledge severall matters, the one
nothing depending of the other,
the plea is accounted double. If
they bee mutually depending one
of the other, then is it accounted
but single. *Kitching fol. 223.* See
Brooke hoc titulo. But why this
doublenesse (for so *Kitchin* cal-
leth it, *fol. 234.*) should be de-
barred, I see no reason (under
correction all things being spo-
ken) For a man may have two
good defences : and happily in
the issue he shall contrarily to
his hope faile in proving the one,
and yet be able to carry the cause
by the other. And therfore not
only the Civilians, but *Braeton*
also saith : *Pluribus exceptioni-
bus uti nemo prohibetur. libr. 5.
tract. 5. cap. 5. num. 4.* whom al-
so reade, *libro 4. cap. 17.* And
Sir *Thomas Smiths* reason of this

scantly satisfieth mee, alledging
this to be the course of our pro-
ceeding, because the triall is by
twelve rude men, whose heades
are not to be troubled with over
many things at once. *lib. 2. de Re-
pub. Anglor. cap. 13.*

Double quarell (duplex querela)
is a complaint made by any
Clerke or other unto the Arch-
bishop of the Province, against
an inferiour Ordinary for delay-
ing of Justice in some cause Ec-
clesiasticall : as to give sentence
or to Institute a Clerke presented,
or such like. The effect whereof,
is that the said Arch-bishop tak-
ing knowledge of such delay,
direceth his letters under his au-
thenticall Seale, to all and singular
Clerks of his Province, thereby
commaunding and authorizing
them and every of them, to
admonish the said Ordinarie,
within a certaine number of
dayes, namely 9. dayes, to doe
the Justice required, or otherwise
to cite him to appeare before
him or his Officiall, at a day in
the said Letters prefixed, and there
to alledge the cause of his delay.
And lastly, to intimate to the
said Ordinary, that if hee neither
performe the thing enjoyned,
nor appeare at the day assignd,
he himselfe will, without far-
der delay, proceed to performe
the Justice required. And this
semeth to bee termed a double

quarrell, because it is most commonly made against both the Judge and him at whose petition Justice is delayed.

Dower (*dos*) commeth of the French (*dovaire*) and signifieth in our Common Law, two things: first, that which the wife bringeth to her husband in marriage, otherwise called (*maritagium*) marriage goods: next, and more commonly, that which she hath of her husband, after the marriage determined, if shee out-live him. *Glanvile lib. 7. cap. 1. Bracton lib. 2. cap. 38. Briton. cap. 101. in princ.* And in Scotland, (*dos*) signifieth just as much. *Skene de verb. signif. verbo Dos.* The former is in French called (*dot*) the other *dovaire*, and by them latined *dosarium*. I likewise once thought it not unreasonable, to call the former a *Dowrie*, and the other a *Dower*: but I finde them confounded. For example: *Smith de rep. Anglo. pa. 105.* calleth the latter a *dowry*, and *dower* is sometime used for the former: as in *Briton. ubi supra.* yet were it not inconvenient to distinguish them being so-divers. The Civilians call the former (*dotem*) and the latter (*donationem propter nuptias.*) Of the former, the common Law bookees speake very little. This onely is to be noted, that whereas by the Civill Law, instruments are made be-

fore marriage, which containe the quantitie of the wives dowrie, or substance brought to her husband, that hee having the use of it, during marriage, may, after certaine deductions, restore it againe to his wives Heires or friends, after the marriage dissolved: the Common Law of England, whatsoever chattels, moveable or immoveable, or readie money shee bringeth, doth make them foorthwith her Husbands owne, to bee disposed of, as hee will, leaving her at his courtesie, to bestow any thing or nothing of her at his death. The reason whereof is said to be, the holding of the wife in obedience to her husband. Onely if shee be an inheretrice, her husband holdeth the Land but during her life, except hee have issue by her: but then hee holdeth it by the courtesie of *England* during his owne life. See *Courtesy*. And againe, if he have any Land in fee, whereof hee was possessed during the marriage, shee is to have a third thereof during her life, though shee bring nothing to him, except shee doe by fine release her right, during the marriage. So that here is no great matter to bee spoken of, but touching *dower* in the latter signification. You must know therefore that upon speech of marriage betwene two, the Parents of both fides are comonly

monly more carefull in providing each for his child , then the parties themselves : And that by their meanes there bee divers bargaines made , some time for the conveiance of lands , &c. to them and their issue : And this is said to be given in Franck marriage : sometime to her , during her life , and that before , or at the marriage : If before marriage , then it is called a Joynture. For a Joynture is a covenant , whereby the Husband , or some for him is tyed (*ratione juncture*) in consideracion of the marriage , that the wife surviving him , shall have during her life , this or that tenement or lands , or thus much Rent yearly payable out of such land , &c. with clause of distressse: and this may be more or lesse , as they do accord , *Braston* , cap. 101. whom read also , cap. 102 , 103 , 104. for *conventio vincit legem*. *Braston* , li. 5. tractat 4. cap 9. The diversitie of these Joyntures , you may see in *West. parte prima symbol.* li. 2. sect. 128 , 129 , 130 , 131 , 132 , 133. But if none of these former bargaines passe before marriage , then must the wife stick to her Dower ; and that is sometime given at the Church doore , or the Chappell doore , if the marriage be by Lycence , but not the Chamber doore ; and may bee what the

Husband will : so it exceed not a third part of his lands , *Glanvile* , lib. 6. cap. pri.. Or the halfe , as some say , *Fitzb. nat. br. fol. 150. N. P.* And this Dower is either certainly set downe and named , or not named , but only in generality , as the law requireth : if it be not named , then it is by law , the third part , and called (*dors legitima*) *Braston* , lib. 4. tract. 6. cap. 6. nn. 6, & 10. *Magna Charta c. 7.* or the halfe , by the custome of some countries , as in *Gavelkind Fitzb. nat. br. fol. 150. O.* And though it be named , it seemeth that it cannot be above halfe the lands of the Husband , *Fitzb. nat. br. fol. 150. P.* And the woman that will challenge this Dower , must make 3. things good , viz. that shee was married to her Husband , that hee was in his life time seised of the land whereof shee demandeth Dower , and that hee is dead , *Cokes reports* , lib. 2. *Binghames case* , fo. 93. a. Of these things see *Glanvile* , li. 6. cap. 1, 2, & 3. *Braston* , lib. 2. cap. 38, 39. & lib 4. tract. 6. cap. 1. & 6. and *Britton* cap. 101 , 102 , 103 , 104. and *Fitzherb. nat. br. fol. 147 , 148 , 149 , & 150.* And this customary Dower , seemeth to be observed in other nations , as well as in ours. *Hotoman verbo Dotalitium in verbis feudal: Cassan. de consuetud. Burg. pa. 580. 676. 677. & de conventional. p. 720.* And to these

joyne the grand Custumarie of Normandy cap. 102. where you shall perceive, that in a manner all our law in this point is taken from the Normans. See Endowment. Of Dower read Fleta likewise, who writeth largely thereof, and hath many things worth the learning, li. 5. ca. 22. & seqq.

Dozenne. See Decennier.

Drags. anno 6. H. 6. ca. 5. seeme to be wood or timber so joyned together, as swimming or floting upon the water, they may beare a burden or load of other wares downe the River.

Draw latches, anno 5. Edw. 3. cap. 14. & anno 7. Rich. 2. cap. 5. *Master Lamberd*, in his Eirenarch. lib. 2. cap 6. calleth them Miching theives, as Wasters and Roberdjsen mighty theives, saying that the words be growne out of use.

Dreit Dreit, signifieth a double right that is *jus possessionis*, & *jus Domini*. *Bracton*, lib 4. cap. 27. & lib. 4. tract. 4. cap. 4. & lib. 5. tract. 3. cap 5.

Dry exchange, anno 3. H. 7. ca. 5. (*Cambium siccum*) seemeth to be a cleanly tearme invented for the disguising of foule usury, in the which something is pretended to passe of both sides, whereas in truth, nothing passeth but on the one side: in which respect it may well be called dry. Of this *Ludovicus Lopes tractat.* de

contract: & negotiatio. lib. 2. cap. pri. §. Deinde post quam. writeth thus, *Cambium est reale vel siccum. Cambium reale dicitur*, quod consistentiam veri *Cambii* realem habet, & *Cambium per trans*, & *Cambium minutū*. *Cambium autem siccum est Cambium non habens existentiam Cambii*, sed apparentiam ad instar arboris exsiccate, que humore vitali iam carens apparentiam arboris habet non existentiam. *Summa Sylv.* Verbo *Vsura* quest. 6. Est ergo *Cambium siccum* juxta banc acceptiōem (in qua etiam accipitur in extrav. Pii quinti) idem quod *Cambium fictū*. Non autem habet propriam naturam *Cambii*, sed mutui & usure. At vero secundum Laurentiū de Navarra in commento de usuris & Cambiis citatam, *Cambium siccum* in alia acceptione minus communi sumnum est *Cambium*, in quo Campor prius dat quam accipiat. Dicitur autem isto modo siccum, quia sine prævia acceptione dat Campor. Quod tamen, ut sic acceptum (autore Silvestro) licite celebratur aliquando. Quid tunc verum & reale *Cambium* est differens genere ab eo *Cambio*, in quo Campor prius recipit. Quis in isto Campor semper primo dat & deinde accipit.

Drift of the Forest, seemeth to be nothing but an exact view or examination, what catell are in the Forest: that it may be known whether it be overcharged or not.

not, and whose the beasts be. This drift, when, how often in the year, by whom, and in what manner it is to be made. See *Manwood*, parte 2. of his. *Forest Lawes*, cap. 15.

Droit d'Advowzen. See *Recto de advocatione Ecclesie.*

Droit close. See *Recto clausum.*

Droit de dower. See *Recto dotis.*

Droit sur disclaimer. See *Recto sur disclaimer.*

Droit patent. See *Recto patens.*

Duces tecum, is a writ commanding one to appear at a day in the Chancery, and to bring with him some piece of evidence, or other thing, that the court would view. See the new booke of Entries, *verbis Duces tecum.*

Duke (Dux) commeth of the French word (*Duc.*) It signifieth in antient times among the Romanes, (*Ductorem exercitus*) such as led their armies, who if by their prowesse they obtained any famous victory, they were by their soouldiers saluted (*Imperatores*) as *Hotoman*, *verbis Dux, de verbis feudal.* proverth out of *Livy, Tully*, and others. Sithence that they were called *duces*, to whom the King or people committed the custody or regiment of any province. *Idem, eod.* And this seemeth to proceed from the Lombards or Germans, *Sigon. de regno Ital. l. 4.* In some nations

this day the Soveraignes of the country are called by this name, as Duke of Russia, Duke of Sweden. Here in England Duke is the next in secular dignitie to the prince of Wales. And (as M. Cambden saith) heretofore in the Saxons times, they were called Dukes, without any addition, beeing but meere officers and leaders of armies. After the Conquerour came in, there were none of this title untill Edward the thirds dayes, who made Edward his son Duke of Cornwall. After that there were more made, and in such sort, that their titles descended by inheritance unto their posteritie. They were created with solemnitie, (*per cincturam gladij, cappaque & circuli aurei in capite impositionem*, vide Camd. Britann. pag. 166. Zazium, *de feudis parte 4. nn. 7. & Cassan. de consuetud. Burg.* pag. 6. & 10. and Ferns glory of generosity, pag. 139.

Dutchy court, is a court, wherein all matters appertaining to the Dutchy of Lancaster, are decided by the decree of the Chancellor of that court. And the originall of it was in Henry the fourths dayes, who obtaining the Crowne by deposing Richard the second, and having the Dutchy of Lancaster by dissent in the right of his mother, hee was seised thereof as King, and not as duke. So that all the liberties, franchises, and

Jurisdictions of the said *Dutchie* passed from the King by his grand Seale, and not by Liverie, or Attournment : as the possessions of *Everwicke*, and of the Earldome of *March*, and such others did, which had descended to the King by other Ancestors then the Kings, but at last, *Henry* the fourth, by authority of Parliament passed a Charter, whereby the possessions, liberties, &c. of the said *Dutchy* were severed from the Crowne : Yet *Henry* the 7. reduced it to his former nature, as it was in *Henry* the fift dayes, *Cromptons Jurisd.* fol. 136. The officers belonging to this Court, are the Chancelour, the Attorney, Receiver generall, Clerke of the Court, the Messenger. Beside these there be certaine Assistants of this Court : as one Attorney in the Exchequer : one Attorney of the Dutchy in the Chancery, foure Learned men in the Law, retained of Councell with the King in the said Court. Of this Court, *M. Gwin*, in the Preface to his Readings thus speaketh. The Court of the Dutchy (or County Palatine of Lancaster) grew out of the grant of King *Edward* the third, who first gave the Dutchy to his Sonne *John of Gaunt* and endowed it with such Royall right, as the County Palatine of Chester had : And for as much, as it was

afterward extinct in the person of King *Henry* the fourth, by reason of the union of it with the Crowne : the same King suspecting himselfe to be more rightfully Duke of Lancaster, then King of England, determined to save his right in the *Dutchy*, whatsoever should befall of the Kingdome : and therefore hee separated the *Dutchy* from the Crowne, and settled it so in the naturall persons of himselfe and his heires, as if he had beene no King or Politick body at all : In which plight it continued, during the reigne of King *Henry* the 5. and *Henry* the 6. that were descended of him. But when King *Edw. the 3.* had (by recovery of the Crowne) recontinued the right of the house of *Torke*, hee feared not to appropriate that *Dutchy* to the Crowne againe : and yet so, that he suffered the Court and Officers to remaine as he found them. And in this manner, it came together with the Crowne, to King *Henry* the 7. who liking well of that Policie of K. *Henry* the 4. (by whose right also hee obtained the Kingdome) made like separation of the *Dutchy*, as he had done, and so left it to his posterity which do yet injoy it.

Dum fuit infra etatem, is a writ which lieth for him, that before hee came to his full age, made a feof-

a seofment of his Land in fee, or for terme of life, or in taile, to recover them againe from him, to whom hee conveyed them, *Fitzb. nat. br. fol. 192.*

Dum non fuit compos mentis, is a writ that lyeth for him, that being not of sound memory, did alien any lands or tenements in fee simple, fee tayle, for terme of life, or of yeares, against the alience, *Fitz. nat. br. fol. 202.*

Duplicat, is used by *Crompton*, for a second Letters patent, granted by the Lord Chancellour, in a case, wherein hee had formerly done the same: and was therefore thought void. *Cromptons Jurisd. fol. 215.*

Dures (*Duritia*) commeth of the French (*dur. i. durus, vel durete. i. duritiae*) and is in our common Law, a Plee used in way of exception, by him that being cast in prison at a mans suit, or otherwise by beating, or thteats, hardly used, sealeth any Bond unto him during his restraint. For the law holdeth this not good, but rather supposeth it to be constrained. *Broke* in his *Abridgement* joyneth *Dures* and *Manasse* together. *i. duritiam & minas*, hardnes and threatening. See the new Booke of Entries, verbo *Dures*. And the New Termes of Law.

E Aldermans (*Aldermannus*) among the Saxons, was as

much as Earle among the Danes. *Camden. Britan. pag. 107.* If yee goe to the true etimologie of the word, mee thinketh, it should found more generally, so much as *πρεστις* with the *Gracians*, or *Senator* with the *Romanes*: who were rather Councillors at large, then bestowed upon any particular office; as *Comites* were. See *Countie*. And that signification we retaine at this day almost in all our Cities, and Boroughs, calling those Aldermen, that are Associates to the Chiefe Officer in the common Councell of the Towne, anno 24. H.8. cap. 13. or sometime the chiefe Officer himselfe, as in *Stawnford*.

Earle (*Comes*) in *M. Camdens* opinion, pag. 107. is a word made by the *Danes* of (*Ealderman*) a word of the *Saxons*. *M. Lamberd* seemeth notwithstanding to acknowledge, that *Earle* is originally a Saxon word, *Explica. of Saxon words. verbo Paganus*: and interpreteth it (*Satrapam*) which word the *Romanes* borrowing of the Persians, applyed to those that were *praefecti provinciarum*. *M. Verstegan in his restitution of decayed Intelligence*, deriveth it from two *Netherland* words (*ear. i. honor*) and (*etbel. i. nobilis*) wherein I leave the Reader to his owne judgement. This title in ancient time, was given to those, that were Associates to the King in his Coun-

Councils and Marshall actions, (as *Comis* was to those that followed the Magistrates in Rome, and executed their offices for them as their Deputies, and died alwaies with the man. *Zafius* hath of this word thus much : *Comitum originem in Doctribus non invenimus; sed neveris eam dignitatem vetustissimam esse.* Nam *Cor. Tacitus* in libello de Germania scribit apud priscos usū fuisse receptum, ut cuilibet principi seu Duci exercitus duodecim comites assignarentur : ideo dicitos, quia comitarentur eos, & à Ducum latere non decederent. *Comitum itaq; originem Germanis moribus ortum esse,* dicitus receptissimus autor testis est. *Qua propter quod in duodecimo libro oodicis aliqui tituli de Comitibus largitionum, &c. inscribuntur, usurpationem Imperatoris ex Germanorum ritibus sumptum credo.* But the Conqueror (as *M. Camden* saith) gave this dignity in fee to his Nobles, annexing it to this or that Countie or Province, and allotted them for their maintenance a certain proportion of money rising from the Princes profits, for the pleadings and forfeitures of the Province. For example, he bringeth an ancient Record in these words : *Henricus 2. Rex Anglie bis verbis Comitem creavit; Sciatis nos fecisse Hugonet Bigot Comitem de Nortfolke. sc: de tertio denario de Norwic.* &

Northfolk sicut aliquis comes Anglie liberius comitatum suum tenet. Which words (saith the same Author) an old booke of Battell Abbey thus expoundeth : *Consuetudinaliter per totam Angliam mos antiquitus inoleverat. Comites provinciarum tertium denarium sibi obtinere, inde Comites dicti.* And another booke without name more fully. *Comitatus à Comite dicitur, aut vice versa, Comes autem est, quia tertiam portionem eorum, qua de placitis proveniunt, in quolibet Comitatu percipit. Sed non omnes Comites isti percipiunt: sed hui quibus Rex hereditario aut personaliter concessit.* You may read *M. Fern in Lacye nobility*, something to this effect, pag. 12. But he saith that one Duke or Earle had divers Shires under his government, as a viceroy, and had Lieutenants under him in every particular Shire, called a Sheriff. That one Earle was dignified by the appellation, or more then one Sheriff, it appeareth by divers of our ancient Statutes, as namely by the sentence of Excommunication, pronounced by the Bishops, against the infringers of the great Charter, and charter of the Forest, anno 38. *H. 3. Roger Bigot is named Earle both of Northfolk and Southfolke, and anno 1. Ed. 3 Thomas Earle of Lancaster and Leycester. Humfrey Bohun, Earle of Hereford*

ford and Essex. Dyer, fo. 285. num.
 39. At thele dayes, as long since, the Kings of England make Earles by their Charters, of this or that Countie, giving them no authority over the Countie, nor any part of the profit rising of it, but onely some annuall stipend out of the Exchequer, rather for honours sake, than any great commoditie. And these bee in other nations accounted Earles improperly, *Quia illi dicuntur vere Comites, quibus datur Comitatus in feudum: illi Comites abusivè, qui non habent administrationem.* *Vincentius de Francibis, desci. 115. nu. 7.* The manner of creating Earles is by girding them with a Sword. *Camdon pag. 107.* but see the solemntie thereof described more at large in *Stowes annals pa. 1121.* The occasion why these Earles in latter times have had no sway over the County, whereof they beare their name, is not obscurely signified in Sir Tho. Smith lib. 2. cap. 14. where he saith, that the Sheriffe is called *Vicecomes* as (*Vicarius Comitis*) following all matters of justice, as the Earle should doe: and that because the Earle is most commonly attendant upon the King, in his warres or otherwise. So that it seemeth that Earles by reason of their high employments, being not able to follow alio the busynesse of the County; were delivered of all

that burthen, and onely enjoyed the honour, as now they doe. And the Sheriffe, though he be still called *Vice-comes*, yet all he doth, is immediatly under the King, and not under the Earle. See *Countie*, and see *Hotoman. de verb. feudal. verbo Comes: and Cassan. de consuetud. Burg. pa. 12.*

Easement, (*esamentum*) is a service that one neighbour hath of another by Charter or prescription, without profit, as a way through his ground, a finke, or such like. *Kitchin fol. 105.* which in the Civill Law is called *Servitus pradii.*

Ede fares, alias, Eele Vare. an. 25. H. 8. cap. be the frie or brood of Eeles.

Egyptians, (*Egyptiani*) are in our Statutes and Lawes of England, a counterfeit kinde of Rogues, that being English or Welsh people, accompany themselves together, disguising themselves in strange roabes, blacking their faces and bodies, and framing to themselves an unknowne Language, wander up and downe, and under pretence of telling of Fortunes, curing diseases, and such like, abuse the ignorant common people, by stealing all that is not too hot or too heavie for their carriage. *anno 1. & 2. Philip. & Mar. cap. 4. anno 5. Eliz. cap. 20.* These are very like to those whom the Itali-

lians call *Cingari*: of whom *Franciscus Leo in suo thesantio fori Ecclesiastici parte prim. cap. 113.* thus writheth: *Cingari, qui corrupto vocabulo, quandoque etiam Saraceni nominantur, & permissione principium ac aliorum dominorum, per Italiam vagantur, nec unquam viserunt partes infidelium, minusque legem Mahomei reverunt: sed sunt ferè omnes Itali, & male habituati, ex rebus furtivis vivunt, ac fraudulentissimum. permurationibus & ludis, in quibus usq; plurimum fraudes committunt, & sunt baptizati.*

Ejectione custodie, Ejectione de gard, is a Writ which lyeth properly against him, that casteth out the Gardian from any land, during the minoritie of the Heire. *Regist. orig. fol. 162. Fitzb. nat. br. fol. 139.* *Termes of the Law. verbo Gard.* There bee two other writs not unlike this: the one is termed *Droit de gard*, or right of guard, the other *Ravissement de guard.* Which see in their places.

Ejectione firms, is a writ which lyeth for the Lessee for terme of yeares, that is cast out before the expiration of his terme, either by the leassour or a stranger. *Regist. fol. 227. Fitz. nat. br. fol. 220.* See *Quare ejecit infra terminum.* See the new booke of Entries. *verbo Ejectione firmo.*

Einecia, is borrowed of the French, *Aisne. i. primogenitus*) and

signifieth in our Common Law, Eldership. *Statute of Ireland, anno 14. Hen. 3.* Of this see *M. Skene de verb. signif. verbo. Enyea.*

*Eyre, alias, Eyre, (Iter. Bracton lib. 3. cap. 11. in Rubrica) commeth of the old French word (Erre. i. iter) as (a grand erre. i. magnis itineribus.) It signifieth in Britton. cap. 2. the Court of Justices Itinerants: and Justices in Eyre, are those onely, which Bracton in many places calleth (Justiciarios itinerantes) of the Eyre, reade Britton ubi supra, who expresseth the whole course of it. And Bracton lib. 3. tractat. 2. ca. 1. ¶ 2: The Eyre also of the Forrest is nothing, but the Justice Seate, otherwise called: which is or should by ancient custome, bee held every three yeare by the Justices of the Forrest, journeyng up and down to that purpose. *Cromptons Jurisd. fol. 156. Manwood parte prima* of his Forrest lawes. pag. 121. See *Justice in Eyre.* Read *Skene de verborum significa. verbo. Iter:* whereby, as by many other places, you may see great affinity between these two Kingdomes in the administration of Justice and government.*

Election de Clerke (*Electione clerici*) is a writ, that lyeth for the choice of a Clerke, assignd to take and make bonds called *statute Merchant*: and is granted out of the Chancery upon suggestion

geslion made, that the Clerke formerly assigned, is gone to dwell in another place, or hath hinderance to let him from following that businesse, or hath not land sufficient to answer his transgression, if hee should deale amisse, &c. *Fitzb. nat. brev. fol. 164.*

Elegit, is a writ Judiciall, and lyeth for him that hath recovered debt, or damages in the Kings Court, against one not able in his goods to satisfie: and directed to the Sheriff, commanding him that hee make delivery of halfe the parties lands or tenements, and all his goods, Oxen and Beasts for the Plough excepted, *Old. nat. br. fol. 152. Regist. orig. fol. 299. & 301.* and the table of the Register Judiciall, which expresseth divers uses of this writ. The author of the new Termes of Law saith, that this writ shoulde bee sued within the yeare, whom reade at large for the use of the same.

Elk, a kinde of Ewe to make Bowes of, anno 33. H. 8. c. 9.

Empanel (*Imponellare, Ponere in assisis & Juratis*) commeth of the French (*Panne. i. pellis*) or of (*Panneau*) which signifieth some time as much as a Pane with us, as a pane of glasse, or of a window. It signifieth the writing or entring the names of a Jury into a parchment Schedule or

Roll or paper, by the Sheriffe, which hee hath summoned to appeare for the performance of such publike service, as Juries are imployed in. See *Panell*.

Emparlance, commeth of the French (*Parler*) and signifieth in our common Law, a desire or petition in Court of a day to pause, what is best to doe. The Civilians call it (*petitionem inducari*) *Kitchin, fol. 200.* interpreth it in these words: If hee imparle or pray continuance. For praying continuance is spoken *interpretative* in that place, as I take it. The same Author maketh mention of *Emparlance generall*, *fol. 201.* and *Emparlance speciali*, *fol. 200.* *Emparlance generall* seemeth to bee that which is made onely in one word, and in generall termes. *Emparlance speciali*, where the party requireth a day to deliberate, adding also these words: *Salvis omnibus advantagis tam ad jurisdictionem Curie quam ad breve & narrationem*, or such like: *Britton* useth it for the conference of a Jury upon the cause committed unto them, *cap. 53.* See *Imparlane*.

Emprovement. See *Improvement*.

Encheson, *A. 50. Ed. 3. cap. 3.* is a French word, signifying as much as occasion, caule, or reason wherfore any thing is done. See *Skene de serbo*, significat. verbo *Encheson*.

Encroachment or Accroachment, commeth of the French (*Accrochement*) i. apprehendere, inuncare, harpagare) and that commeth of (*Crochture*. i. *aduncitatis*) or (*crochu i. aduncus*) *Encroachment*, in our Common Law, signifieth an unlawfull gathering in upon another man. For example, if two mens groundes lying together, the one presseth too farre upon the other: or if a Tenant owe two shillings rent service to the Lord, and the Lord taketh three: So *Hugh and Hugh Spencer* encroched unto them royall power and authority, *anno prim.* Ed. 3. *in praem.*

Enditement (*Indictamentum*) commeth of the French (*Enditer*. i. deferre nonen alicujus, indicare) or from the Greeke *indictio*, because *M. Lamberd* will have it so. *Eirenar.* lib. 4. cap. 5. pag. 468. It signifieth in our Common Law, as much as (*Accusatio*) in the Civile Lawe, though it have not in all points the like effect. *West.* part. 2. symb. *titulo*, *Inditements*) defineth it thus: An Inditement is a Bill or declaration made in forme of Lawe) for the benefite of the Common wealth) of an accusation for some offence, either criminall or penall, exhibited unto Jurours, and by their verdict found and presented to bee true, before an Officer having power

to punish the same offence. It is an accusation, because the Jury that inquireth of the offence, doth not receive it untill the party that offereth the Bill, appeare so farre in it, as to subscribe his name, and offer his oath for the truth thereof. It differeth from an Accusation in this, that the preferrer of the Bill is no way tyed to the proofe thereof upon any penaltie, if it be not proved, except there appeare conspiracie. Wherefore, though moved by *M. West's* authoritie, I call it an Accusation: yet I take it to be rather (*Denunciatio*) because it is of Office done by the great Enquest, rather then of a free intent to accuse. Of this you may reade *S. Thos. Smith de Repub. Anglor.* lib. 2. cap. 19. and *Statut. pl. cor.* lib. 2. cap. 23, 24, 25, 26. &c. *Usq.* 34. and *M. Lamberds Eirenarcha.* lib. 4. ca. 5. whence you may receive good satisfaction in this matter.

Endowment (*dotatio*) commeth of the French (*Douaire*) and signifieth the bestowing or assuring of a *Dower*. See *Dower*. But it is sometime used Metaphorically, for the setting forth or severing of a sufficient portion, for a Vicar toward his perpetuall maintenance, when the Benefice is appropriated. See *Appropriation*. And the Statute, A. 15. R. 2. cap. 6.

Endowment de la plus Belle partie
is where a man dying seised of
some lands, holding in Knights
service, and other some in so-
cage, the widow is sped of her
Dower, rather in the lands hold-
ing in socage, then Knights ser-
vice. Of this reade *Littleton* more
at large, lib. 1. cap. 5.

Enfranchisement, commeth of
the french (*Franchise. i. libertas*)
and is in a manner a french word
of it selfe : it signifieth in our
common law, the incorporating
of a man in any society, or body
politicke. For example, he that
by Charter is made Denizen of
England, is said to be infranchised ;
and so is hee that is made a
Citizen of *London*, or other City,
or Burgesse of any Towne Cor-
porate, because hee is made par-
taker of those liberties that ap-
pertaine to the Corporation,
wherinto hee is infranchised. So
a villain is infranchised, when
hee is made free by his Lord, and
made capable of the benefits be-
longing to free-men.

Englecerie (*engleceria*) is an
old abstract word, signifying no-
thing else but to be an English-
man. For example, if a man be
privily slaine or murdered, hee
was in old time accounted (*Fran-
cigena*) which word compre-
hendeth every alien, untill *Engle-
cerie* was proved : that is, un-
till it were made manifest, that

hee was an English man. A man
may marvell, what meaning
there might bee in this : but *Bra-
eton* cleareth the doubt, who in
his third booke, tract. 2. cap. 15.
num. 3. telletus, that when *Car-
narus* the Danish King, having
settled his estate here in peace,
did at the request of our Barons,
disburden the land of his armie,
wherein hee accounted his grea-
test safety : and conditioned
with them, that his countreymen
which remained here, should
continue in peace : and the more
to secure that, that for every
Francigena (under which word,
(as is abovesaid) hee comprehen-
ded all outlandish men and wo-
men, and especially *Danes*) that
was secretly murthered, there
should be levied to his Treasurie
66. markes out of the village,
where the murther was com-
mitted, or out of the Hundred, if
the Village were not able to pay
it : and further, that every man
murdered, should bee accounted
Francigena, except *Englecerie* were
proved : which, how it was to be
proved, looke the 7. number in
the same chapter. And see also
Horns mirror of Justices, lib. 1.
cap. del office del coroner, and *Fleta*
lib. 1. cap. 30. This *Englecerie*, for
the abuses and troubles that af-
terward were perceived to
grow by it, was cleane taken
away, by a Statute made anno

14. Edward 3. capite quarto.
Enheritance. See Inheritance.

Enquest (Inquisitio) is all one in writing with the French word, and all one in signification, both with the French and Latine. Nowbeit, it is especially taken for that inquisition, that neither the Romanes, nor French men ever had use of, that I can learne. And that is the Enquest of Jurors, or by Jurie, which is the most usuall triall of all cautes, both Civill and Criminall in our realme. For in causes Civill, after proofe is made on either fide, so much as each partie thinketh good for himselfe, if the doubt bee in the fact, it is referred to the discretion of twelve indifferent men, empaneled by the Sheriff for the purpose: and as they bring in their verdict, so judgement passeth. For the Judge saith, the Jurie finde the fact thus: then is the law thus: and so wee judge. For the enquest in causes Criminall, see Jurie; and see Sir Thomas Smith de Repub. Anglor. li. 2. ca. 19. An enquest is either of office, or at the mise of the party. Stawn. pl. cor. lib. cap. 12.

Entendement commeth of the French (entendiment. i. intellectus, ingenium.) It signifieth in our common law, so much as the true meaning or signification of a word or sentence. See of this Kitchin, fol. 224.

Entayle (feudum saltuum) commeth of the French (entaille. i. incisum) and in our common law, is a substantive abstract, signifying Fee-taile, or Fee-intailed. Lisketon in the second chapter of his booke, draweth Fee-taile from the verbe Tailiare (which, whene it commeth, or whether it will, I know not) whereas in truth it must come from the French (tailler. i. sectura,) or (tailler. i. scandere, se-care.) And the reason is manifest, because Fee-taile in the Law, is nothing but Fee abridged, scantled or curtelled, (as you would say) or limited and tyed to certayne conditions. Taille in France, is metaphorically taken for a tribute or subsidie. v, Luponum de Magistratibus Franco-num. lib. 3. cap. Take. See Fee. See Tayle.

Enterpledere (Interplacitare) is compounded of two French words (entre. i. inter) and (pledere. i. disputare) and it signifieth in our common Law, as much as cognitio prejudicialis in the Civill Law: that is, the discussing of a point incidently falling out, before the principall cause can take end. For example, two severall persons, being found heires to land, by two severall offices in one Countie, the King is brought in doubt to whether livery ought to be made: and therefore before

fore Livery be made to either: they must enterplead; that is, formerly trie betwene themselves, who is the right heire. *Statvs. preroga. chap. 19.* See more examples in *Broke*, *titulo Enterpledere*.

Entiere tenancie, is contrary to severall Tenencie, signifying a sole possession in one man: whereas the other signifieth joyn or common in more. See *Broke* severall tenencie. See the new booke of Entries, *verbo Entier tenancie*.

Entry (Ingressus) commeth of the French (*entree*, i. *introitum*, *ingressus*, *aditus*) and properly signifieth in our common Law, the taking possession of lands or tenements. See *Plowden*. Assise of fresh force in *London*, fol. 93. b. It is also used for a writ of possession, for the which, see *Ingressus*. And read *Weſt also*, *parts 2. Symbol. titulus Recoveries*, *Sect. 2. & 3.* Who there sheweth for what things it lyeth, and for what it lyeth not. Of this *Britton* in his 1.1.4. chapter writeth to this effect. The writs of entrie favour much of the right of povertie. As for example, some be to recover customes and services: in the which are contained these two words (*solus & debet*) as the writs *Quo jure*, *Rationalib[us] divisis*, *rationalibilis est overio*, with such like. And in this plee of entrie

there bee three degrees: The first is, where a man demandeth lands or tenements of his owne leisin, after the terme is expired. The second is, where one demandeth lands or tenements, let by another after the terme expired. The third, where one demandeth lands or tenements of that tenant, that had entry by one, to whom some Ancestour of the Plaintiff did let it for a terme now expired. According to which degrees, the writs for more fit remedy are varied. And there is yet a fourth forme, which is without the degrees; and in case of a more remote Seisin, whereunto the other three degrees do not extend. The writ in the second degree is called a writ of entry *in le per*: and a writ in the third degree is called a writ of entrie *in le per & cui*: and the fourth forme without these degrees, is called a writ of entry *in le post*: that is to say, after the disseisin which such a one made to such a one. And if any writ of entry bee conceived out of the right case, so that one forme bee brought for another, it is abateable. The forme of the first degree is such. *Precipe Willielmo quod reddat Petro manerium de B. cum pertinentiis quod ille dimisit pro termino, quietelapsu.* The second is such: *Precipe Petro quod reddat Willielmo manerium*

rium, &c. in quod ille non habuit ingressum nisi per patrem aut matrem, avunculum, vel amitam, vel cognatum, avum vel proavum dicti Petri qui dictum manerium dimisit pro termino qui est elapsus. The third forme is such: *Præcipe Johanni quod reddat Petro manerium de S.* in quod ille non habuit ingressum nisi per T. cui talis pater vel mater, vel alius antecessor aut cognatus idem dimisit, cuius heres est ipse Petrus, pro termino, qui est elapsus.

And the forme without the degrees is such: *In quod non habuit ingressum, nisi post lessam, quam talis pater aut mater (sic ut supra) cuius heres ille est, inde fecit pro termino, qui est elapsus.* And in those fourre degrees be comprehended all manner writs of entry, which be without certaintie and number. Thus farre Britton: by whom you may perceive, that those words (*solet & debet*) and also those other words (*in le per*) (*in le per & cui*) and (*in le post*) which wee meete with many times in booke shortly and obscurely mentioned, doe signifie nothing else, but divers formes of this Writ, applyed to the case, whereupon it is brought, and each forme taking his name from the said words contained in the writ. And of this reade Fitzb. in his *nat. brev. fol. 193. & 194.* This writ of entry differeth from an assise, because it lyeth for the

most part against him, who entered lawfully, but holdeth against Law: whereas an Assise lyeth against him that unlawfully disseised: yet sometime a writ of entrie lyeth upon an entrusion. *Regi. orig. fol. 233. b.* See the new book of Entries, verbo *Entre Brevis* fol. 254. colum. 3. I reade of a writ of entry in the nature of an assise. Of this writ in all his degrees, reade *Fleta*, lib. 5. cap. 34. & seqq. 5.

Etrusion (Intrusio) in our common Law, signifieth a violent or unlawfull entrance into lands or tenements, being utterly void of a possessor, by him that hath no right, nor sparke of right unto them, *Braeton*, lib. 4. cap. 2. For example, if a man step in upon any lands, the owner whereof lately dyed, and the right heire, neither by himselfe nor others, as yet hath taken possession of them. What the difference is betweene *Abator* and *Intrudour*, I doe not well perceive, except an Abatour he bee that steppeth into land void by the death of a tenant in fee, and an Entrudour that doth the like into lands, &c. void by the death of the tenant for termes of life or yeeres. See *Fitzb. nat. br. fol. 203. F.* The author of the new Termes of Law would have abatement Latined, (*Interpositionem, aut Introitionem per interpositionem*) and to be restrained

strained to him that entreth before the heire after the decease of a tenant for life, though the new booke of Entries, fol. 63. C. & 205. D. & 519. C. by his confession doth Latine (*Abatement*) by this word (*Intrusionem*.) See *Abatement*. See *Dissolucion*. See *Britton cap. 65.* *Intrusion* is also taken for the Writ brought against an Intruder, which see in *Fitzb. nat. br. fol. 203.*

Intrusion de gard, is a Writ, that lyeth where the Infant within age entred into his lands and holdeth his Lord out: for in this case, the Lord shall not have the Writ (*De communis custodia.*) But this *Old nat. br. fo. 90.*

Error, signifieth to take place or effect, to be availeable, Example: A Release shall *error* by way of extinguishment. *Littleton cap. Release.* And a release made to a tenant for terme of life, shall inure to him in the Reversion.

Erius, alias Iris, is the *Flour de lys*, whose divers kindes you have expressed in *Gerards Herball. lib. 1. cap. 34.* The root of this is mentioned among Merchandize or Drugs to bee garbled *anno 1. Jaco. cap. 19.*

Ermins seemeth to come of the French (*Ermine i. mis eraneus.*) It signifieth a Furre of great price.

Erminstrete, see *Wallingstreat.*

Errant (*Itinerans*) commeth

of the French (*Error. i. errare*) or the old word (*Erre. i. Iter.*) It is attributed to Justices of circuit. *p. cor. fol. 15.* and *Bylsifes at large.* See *Justices in Eyré.* and *Baylise.* See also *Eyre.*

Error (*Error*) commeth of the French (*Erreor*) and signifieth more specially in our Common Law, an error in pleading, or in the proces, *Brooke, titulus Error.* And thereupon the Writ, which is brought for remedy of this oversight, is called a Writ of error, in Latine, *De errors corrigendo*: thus defined by *Fitzb.* in his *nat. br. fol. 20.* A Writ of Error is that properly, which lyeth to redresse false judgement given in any Court of Record, as in the Common bench, *London*, or other Citie, having power (by the Kings Charter or prescription) to hold plee of debt. See the new booke of *Entries. verbo Error.* or trespass above the summe of twenty shillings. This is borrowed from the French practise, which they call (*proposition d'erreur.*) Whereof you may reade in *Gregorius De appellation. pag. 36.* In what diverositie of cases this Writ lyeth, see the *Register originall* in the Table, *verb. Error corrigendo*, and *Register judiciall fol. 34.* There is likewise a Writ of Error to reverse a Fine. *West. parte 2. stet. Symbol. titulus Fines. 151.*

Errore corrigendo. See *Error.*

Escarbio, is a licence granted to one for the making over of a Bill of Exchange to a man over Sea. *Register. Original.* fol. 194. a.

*Escape (escapium) commeth of the French (eschapper, i. effugere, effugere:) and signifieth in the Law, a violent or privie evasion out of some lawfull restraint. For example, if the Sheriffe upon a *Capias* directed unto him, take one, and indeavour to carry him to the Goale, and hee in the way, either by violence or by slight, breake from him: this is called an escape. pl. cor. fol. 70. Many examples might bee brought out of him and others, but the thing is plaine: *Stawnford. lib. 1. cap. 26. pl. cor.* nameth two kindes of *Escapes, voluntarie and negligent:* *Voluntarie* is, when one arresteth another for felonie or some other crime, and afterwards letteth him goe whither he listeth. In which escape the partie that permitteth it, is by Law guilty of the fault committed by him that escapeth, bee it Felony, Treason, or Trespas: *Negligent escape* is, when one arrested, and afterward escapeth against his will that arrested him; and is not pursued by fresh suite, and taken againe, before the party purusing hath lost the sight of him: *Idem cap. 27.* but*

there reade more of this matter, for there bee doubts worth the consideration. And of the course of punishment by the Civill Law in this point, reade in *Practica criminali Clandii de Battandier.* reg. 143. reade also *Cromptons Justice* fol. 35. b. & fol. 36. & 37. and reade the new *Termes of Law.* There is an escape of beasts likewise: and therefore hee that by charter, is *quietus de escasio* in the forrest, is delivered of that punishment, which by order of the forrest, lyeth upon those whose beasts bee found within the land forbidden: *Cromptons Jurisdict. fol. 196.*

*Eschequer (Scaccarium) commeth of the French (Eschequier, i. abacus, tabula lusoria) and signifieth the place or Court of all receipts belonging to the Crowne, and is so termed as I take it, by reason that in auncient times, the accomptants in that Office used such Tables as *Arithmetitians* use for their calculations, for that is one signification of (*Abacus*) amongst others. *Polidor. Virgil. lib. 9. bift. Anglo.* saith that the true word in Latine is *Statarium*, and by abuse called *Scaocarium.* In mine opinion it may well seeme to be taken from the German word (*Schatz*) signifying as much as (*Tbesaurus*) or (*Fiscus*). And from this fountaine (no doubt) spring-*

springeth the Italian word (*Zecch'a*) signifying a mint : and *Zeccherii alias Zechieri*) the officers thereunto belonging, *Descri. Genuen 134. M. Cam.* in his *Britan.* pag. 113. saith that this Court or office tooke the name à *tabula ad quam assidebant*, proving it out of *Gervasius Tilburiensis*, whose words you may reade in him. This Court is taken from the *Normans*, as appeareth by the *Grand Custumarie*, cap. 56. where you may finde the *Eschequier* thus described. The *Eschequier* is called an assembly of High *Justiciers*, to whom it appertaineth to amend that which the *Bailiffes*, and other meaner *Justiciers* have evill done, and unadvisedly judged : and to doe right to all men without delay, as from the Princes mouth : *Skene de verbo significacione, verbo (Scaccarium) hath, out of Paulus Aemilius these words : Scaccarium dicitur quasi Statarium, quod homines ibi in jure sistantur, vel quod sit stataria & perennis Curia, cum cetera curiae essent indicitiva, nec loco, nec tempore statae : where hee saith also of himselfe, that in Scotland the Eschequer was stable, but the other Session was deambulatorie, before James the fift : qui instituit Statariam curiam, cum antea esset indicitiva : hee addeth farther : Others thinke that Scaccarium is*

so called à similitudine ludi *Scacorum*, that is the play of the chests : because many persons meet in the Chequer, pleading their causes one against the other, as if they were fighting in an arraigned battell : Others thinke that it commeth from an old Saxon word (*Seata*) as writeth *S. Thomas Smith*, which signifieth Treasure, taxation, or Impots, whereof account is made in the Chequer : This Court consisteth, as it were, of two parts : whereof one is conversant especially in the judicall hearing and deciding of all causes appertaining to the Princes Cofers, anciently called *Scaccarium computorum*, as *Ockam* testifieth in his *lucubrations* : the other is called the receite of the *Eschequier*, which is properly employed in the receiving and payment of money. *Crompton in his Jurisdictions*, fol. 105. defineth it to be a Court of record, wherein all caules touching the revenues of the Crowne are handled. The officers belonging to both these, you may finde named in *M. Cambdens Britannia*, cap. *Tribunalia Anglie*, to whom I refer you. The Kings Exchequer which now is settled in *Westminster*, was in divers Counties of *Wales*, anno 27. H. 8. cap. 5. but especially cap. 26.

Escheate (*Eschaeta*) commeth of the french (*eschooir*. i. *cadere, acci-*

dere, excidere, and signifieth in our common law, any lands, or other profits, that fall to a Lord within his Manor by way of forfeiture, or the death of his tenant, dying without heire generall, or especiall; or leaving his heire within age, or unmarried, *Magna Charta*, cap. 31. *Fitzher. nat. br. fol. 143.* T. &c. Escheat is also used sometime for the place or circuit within the which the King, or other Lord hath escheats of his tenents, *Bracton, lib. 3. tract. 2. c. 2.* & *pupilla oculi partie 2. cap. 22.* Escheat thirdly, is used for a writ, which lieth, where the tenant having estate of fee simple in any lands or tenements holden of a superior Lord, dyeth seised without heire generall or especiall. For in this case the Lord bringeth this writ against him that possessest these lands after the death of his tenant, and shall thereby recover the same in lieu of his services, *Fitz. nat. br. fol. 144.* These that wee call Escheats, are in the Kingdome of Naples called *Excadentia*, or *bona excedentia*, as : *Boro locas excedentias et modo quo locate fuerant ab antiquo : ita quod in nullo debitis servitia minuantur, & non remittit gallinam debitam : Jacobutius de Francis in predictis ad feudorum usum, tit. 1. num. 29. & num. 23. v. Morante singularia, verbo Excadentia.* And in the

same signification, as wee say the fee is escheated, the Feudists use *studium aperitur. lib. 1. feudal. titul. 18. §. 2. titul. 15. & titul. 26. §. 4.*

Escheator (*Escautor*) commeth of (*Escheate*) and signifieth an officer that observeth the *Escheats* of the King in the County, whereof hee is *Escheator*, and certifieth them into the *Eschequer*: This officer is appointed by the L. Treasurer, and by Letters Patents from him, and continueth in his office but one yeare, neither can any be *Escheator* above once in three yeares, *ann. 1. H. 8. cap. 8. & ann. 3. ejusd. c. 2.* See more of this officer and his authority in *Cromptons Justice of peace*, See *an. 29. Ed. 1.* The forme of the *Escheators oath*, see in the Register originall. *fol. 301. b.* *Fitz.* calleth him an officer of record, *nat. br. fol. 100. C.* because that which hee certifieth by vertue of his office, hath the credit of a record. *Officium escaetria*, is the *Escheatoursip*. *Regist. orig. fol. 259. b.*

Escuage (*Scutagium*) commeth of the French (*escu. i. clypeu*) a buckler or shield. In our common law, it signifieth a kind of Knights service, called service of the Shield, whereby the tenant holding, is bound to follow his Lord into the *Scottish* or *Welsh* wars, at his own charge: for the

the which see *Chivalrie*. But note that *Eſcuage* is either uncertaine or certaine. *Eſcuage* uncertaine, is properly *Eſcuage*, and Knights service, being ſubject to homage, fealty, ward and marriage, ſo called, because it is uncertaine how often a man ſhall be called to follow his Lord into thofe wars, and againe, what his charge will be in each journey. *Eſcuage* certaine, is that which yearly payeth a certaine rent in lieu of all ſervices, being no further bound then to pay his rent, called a Knights fee, or halfe a Knights fee, or the fourth part of a Knights fee, according to his land, and this lefeth the nature of Knights service, though it hold the name of *Eſcuage*, being in effect, *Socage*. *Fitzher.* nat. br. fol. 84. C.

Eſcucis (*Eſcucis*) is a prerogative given to the eldest Coparcener, to chufe firſt, after the inheritance is divided, *Fitz. li. 5. ca. 10.* & in divisionem.

Eſples (*Expletia*) ſeeme to be the full profits that the ground or land yeeldeth, as the Hay of the Meadowes, the Feed of the Pature, the corne of the Earable, the Rents, Services, and ſuch like issues: *Ingham*. It ſeemeth to proceed from the Latine (*Explor*). The profits comprifed under this word, the Romanes call properly *accessiones*. *Nam accessionum no-*

mine intelliguntur et generaliter omnia, que ex re, de qua agitur, orta sunt, veluti fructus, partus, & omnis cauſa rei, & quecumque ex re procedant. li. 2. 7. *De in diem adjectio*, li. 50. n. *Ad Trebel.* li. 61. h. *bis etiam.* n. de fuit. See the new Termes of law.

Esquier (*Armiger*) is in letters little altered from the French (*Eſcuer*. i. *scutiger*) It ſignifieth with us a Gentleman, or one that beareth armes, as a testimony of his nobility or gentry. *S. Thomas Smith* is of opinion, that at the firſt, theſe were Bearers of armes to Lords and Knights, and by that had their name and dignitie. Indeed the French word is ſometime tranſlated (*Agas*) that is, a Boy to attend or keep a horse; and in old English writers, it is uſed for a Lackey, or one that carrieth the shield or Speare of a Knight. *Mast. Combden in his Britannia*, pag. 111. hath theſe words of them; having ſpoken of Knights: *Hic proximi ſuere Armigeri, qui & ſcutiferi, hominesq; ad arma dicti, qui vel a clypeis gentilitiis, que in nobilitatis insignia geſtant: vel quis principibus & majoribus illis nobilibus ab armis erant, nomen traxerunt.* Olius enim ex hiis duo unicuique militi ſerviebant, ga'eam clypeumq; geſtabant. *Eccl. Hotoman* in the ſixth chapter of his Disputations upon the Feods ſaith, that theſe which the

French men call (*Escuiers*) were a Military kind of vassall having *jus scuti*, which is as much to say (hee there interpreteth himselfe) as that they bare a Shield, and in it the ensignes of their family, in token of their Gentility or Dignity.

Essendi quietum de telonio, is a writ that lyeth for Citizens and Burgesses of any City or Towne, that have a Charter or Prescription to exempt them from tolle, through the whole Realme, if it chance they be any where exacted the same, *Fitz. nat. br. fol. 226. Regist. fol. 258.*

Essoine (*essonum*) commeth of the French (*essonie* or *exonnie*, i. *censarius miles*) hee that hath his presence forborne or excused upon any just cause, as sicknesse or other incumbrance. It signifieth in our common law, an alledgement of an excuse for him that is summoned, or sought for to appeare, and answer to an action-reall, or to performe suit to a Court Baron, upon just cause of absence. It is as much as (*excusatio*) with the Civilians. The causes that serve to *essoine* any man summoned, be divers and infinite: yet drawne to five heads: whereof the first is (*ultra mare*) the second (*de terra sancta*) the third (*de malo veniendo*) which is also called the common *Essoine*, the fourth is (*de malo loceti*) the

fifth (*deservitio Regis*). For further knowledge of these, I refer you to *Glanvile*, in his whole first booke, and *Bracton*, li. 5. tractat. 2. per totum, and *Britton*, cap. 122, 123, 124, 125. and to *Horns mirror of Justices*, li. 1. ca. des *Essoines*, who maketh mention of some more *essoines* touching the service of the King celestiall, then the rest doe, and of some other points not unworthy to be knowne. Of these *essoines* you may read further in *Flet*. li. 6. ca. 8. & seqq. and that these came to us from the *Normans*, is well shewed by the *Grand Custumary*, where you may find in a manner all said, that our Lawyers have of this matter, cap. 39, 40, 41, 42, 43, 44, 45.

Essoines and profers, anno 32. H. 8. cap. 21. See *Profer*.

Essonio de malo lecti, is a writ directed to the Sheriffe, for the sending of foure lawfull Knights to view one that hath *essoined* himselfe *de malo lecti*, *Regist. orig. fo. 8. b.*

Establishment of dower seemeth to be the assurance of dower, made to the wife by the husband or his friends, before or at marriage. And *assignement* is the setting it out by the heire afterward, according to the *Establishment*, *Briton*, cap. 102. & 103.

Estandard or Standard, com- meth

meth of the French (*estandard*) or *estendant*. i. *signum*, *vexillum*. It signifieth an Ensigne in warre, as well with us as with them. But it is also used for the principall or standing measure of the King, to the scantling whereof, all the measures thorowout the Land, are, or ought to bee framed by the Clerke of the Market, *Anhenger*, or other Officer, according to their functions. For it was established by the Statute of *Magna Charta*, anno 6. H. 3. cap. 9. That there should bee but one scantling of Weights and Measures through the whole Realme, which is sithence confirmed by Anno 14. Edw. 3. cap. 12. and many other Statutes; as also, that all should be fitted to the *Standard*, sealed with the Kings Seale. It is not called a Standard without great reason: because it standeth constant and immooveable, and hath all other Measures comming toward it for their conformitie, even as Souldiers in field have their Standard, or Colours for their direction in their march or skirmish. Of these Standards and Measures, reade *Britton*, cap. 30.

Estate, commeth of the French (*estat* i. *conditio*) and signifieth especially in our common Law, that Title or In-

terest, which a man hath in Lands or Tenements, as estate simple, otherwise called Fee-simple, and estate conditionall, or upon condition, which is, (as *Littleton* saith, libro 3. caput 5.) either upon condition in Deed, or upon condition in Law. Estate upon condition in Deed is, where a man by Deed indentured, infesteth another in fee, reserving to him, and to his Heires yeerely, a certaine Rent, payable at one Feast, or at divers; upon condition, that if the Rent bee behinde, &c. that it shall be lawfull to the Feoffour, and to his Heires, to enter in the Lands or Tenements, &c. Estate upon condition in Law, is such as hath a consideration in the Law annexed to it, though it be not specified in writing. For example, if a man grant to another by his Deed, the Office of a Parker-ship for tearme of his life, this estate is upon condition in the Law, or employed by Law, viz. if the Parker so long, shall well and truly keepe the Parke, &c. I reade also of an estate particular, which is an estate for life, or for yeeres, *Perkins Surrenders*, 581.

Estopel, seemeth to come from the French (*estoper* i. *oppilare*, *obturare*, *stipare*, *obstipare*) and signifieth

fieh in our common Law, an impediment or barre of an action growing from his owne fact, that hath, or otherwise might have had his action; for example: A Tenant maketh a feofment by collusion to one: the Lord accepteth the services of the feoffee: by this hee debarreth himselfe of the wardship of his tenents heire, *Fitz. nat. br. fol. 142. K.* Divers other examples might be shewed out of him, and *Broke b. titulo.* Sir Edward Coke, lib. 2. c. aij Goddard, fol. 4. b. defineth an *estoppel* to be a barre or hinderance unto one to pleade the truth, and restraineth it not to the impediment given to a man by his owne act onely, but by another also. lib. 3. *The case of Fines*, fol. 88. a.

Estovers (*Estoverium*) commeth of the French (*estover*. i. *fouger*) and signifieth in our common Law, nourishment or maintenance. For example: *Bracton*, lib. 3. tractat. 2. cap. 18. num. 2. useth it for that sustenance, which a man taken for felonie, is to have out of his lands or goods for himselfe and his family, during his imprisonment: and the statute, anno 6. Ed. prim. cap. 3. useth it for an allowance in meat or cloath. It is also used for certaine allowances of wood, to bee taken out of another mans woods. So it is used *West.* 2. cap.

25. anno 13. Edw. I. M. West. parte 2. symbol. titulo *Fines*, Sect. 26. saith, that the name of *Estovers* containeth Houte-bote, Hay-bote, and Plow-bote: as if hee have in his grant these generall words: *De rationabili estoverio in boscis, &c.* hee may thereby claime these three.

Estrepement, or *Estrepament*, (*estrepementum*) commeth of the French word (*estropier*. i. *multilare*, *obtruncare*) the which word the French men have also borrowed of the Italians, or rather Spaniards, with whom (*Estropier*) signifieth to set upon the racke. It signifieth in our common Law, spoile made by the Tenant for terme of life, upon any lands or woods, to the prejudice of him in the reversion, as namely in the statute anno 6. Ed. 1. ca. 13. And it may seeme by the derivation, that *Estrepament* is properly the unmeasurable soaking or drawing of the heart of the land by Ploughing or Sowing it continually, without manuring, or other such usage, as is requisite in good Husbandry. And yet (*Estropier* signifying *multilare*) it may no lesse conveniently be applyed to those, that cut downie Trees, or lop them farther than the Law will beare. This signifieth also a Writ, which lyeth in two sorts: the one is, when a man having an Action depending

ding (as a fordom, or *dum fuit infra statem*, or Writ of right, or any such other) wherein the demandant is not to recover damages, sueth to inhibite the Tenant for making waste (during the suite.) The other sort is for the Defendant, that is adjudged to recover seisin of the Land in question, and before execution, sued by the Writ *Habere facias seisinam*, for feare of waste to bee made before hee can get possession, sueth out this Writ : See more of this, in *Fitzb. nat. brev.* fol. 60. &c. 61. See the *Regist. orig.* fol. 76. and the *Register, judicial.* fol. 33.

Estate (*extractum vel extracta*) commeth of the French (*Traict*) which among other things signifieth a figure or resemblance : and is used in our Common Law, for the copie or true note of an originall writing. For example, of amercements or penalties set downe in the rolles of a Court, to be levied by the Bayliffe or other Officer, of every man for his offence. See *Fitzb. nat. bre. fol. 75. H. I. K. & 76. A.* And so it is used *Westm. 2. cap. 8. anno 13. Ed. 1.*

Estrey (*extrabura*) in our common Law, signifieth any beast not wilde, found within any Lordship, and not owned by any man. For in this case, if it being cryed, according to Law, in the

market Townes adjoyning, shall not bee claimed by the owner within a yeare and a day, it is the Lords of the soile. See *Britton cap. 17.* See *Estrayes in the Forrest, anno 27. H. 8. cap. 7.* New booke of Entries. *verbo Trespass concer-*
nunt estrey.

Evidence, (*evidentia*) is used in our Law generally for any prooife, bee it testimony of men or instrument. *Sir Thomas Smith* useth it in both sorts, *lib. 2. cap. 17.* in these words : Evidence, in this signification, is Authenticall writings of contracts after the manner of England, that is to say, written, sealed, and delivered. And *lib. 2. cap. 23.* speaking of the prisoner that standeth at the barre, to pleade for his life, and of those that charge him with Felony, hee saith thus : then hee telleth what he can say : after him likewise all those, who were at the apprehension of the prisoner, or who can give any Indices or tokens, which wee call in our language (*Evidence*) against the malefactor.

Examiner in the *Chancerie*, or *Starre-Chamber*, (*examinator*) is an Officer in either Court, that examineth the parties to any suite upon their oathes, or witnessesse produced of either side : whereof there be in the Chancery two.

Exception, (*exceptio*) is a stoppe
Dd 1 or

or stay to an action, being used in the civil and common Law, both alike, and in both divided into dilatory and peremptory. Of these see Bract. n. 1.5, tract. 5, *per totum*: and Britton. cap. 91, 92.

Exchange (*excambium, vel cambium*) hath a peculiar signification in our common law, and is used for that compensation which the warrantor must make to the warrantee, value for value, if the land warranted be recovered from the warrantee. Bracton, lib. 2, cap. 6. & lib. 3, cap. 19. It signifieth also generally as much as (*Permutatio*) with the Civilians, as the Kings Exchange, anno 1 Hen. 6, cap. 1, & 4. & anno 9 Edw. 3. statut. 2, cap. 7. which is nothing else but the place appointed by the King for the exchange of Bullion, be it gold or silver, or plate, &c. with the Kings coyne. These places have beene divers heretofore, as appeareth by the said statutes. But now is there onely one, viz. the Tower of London conjoyned with the Mint. Which in time past might not be, as appeareth by anno 1 Henrici 6. cap. 4.

Exchequer, see *Eschequer*.

Excheator, see *Escheator*.

Excommunication (*excommunicatio*) is thus defined by Panormitan: *Excommunicatio est nihil aliud quam censura à Canone vel Iudice Ecclesiastico prolatā & infi-*

cti, privans legitima communione sacramentorum, & quandoque hominum. And it is divided in *majorem & minorem*. *Minor est, per quam quis à Sacramentorum participatione conscientia vel sententia arceretur. Major est, quæ non solum à Sacramentorum, verum etiam fidelium communione excludit, & ab omni actu legitimo separat & dividit. Venatorius de senten. excom.*

Excommunicato capiendo is a Writ directed to the Sheriffe for the apprehension of him who standeth obstinately excommunicated for forty dayes: for such a one not seeking absolution, hath or may have his contempt certified or signified into the Chancery, whence issueth this writ, for the laying of him up without Bayle or Mainprise, until he conforme himselfe. See Fitz. nat. br. fol. 62. & an. 5. Eliz. ca. 23. and the Register orig. fo. 65, 67, & 70.

Excommunicato deliberando is a writ to the under-Sheriffe, for the delivery of an excommunicate person out of prison, upon certificate from the Ordinarie, of his conformity to the jurisdiction Ecclesiastical. See Fitz. Nat. br. fol. 63 a. and the Register, fol. 65, & 67.

Excommunicato recipiendo is a writ, wherby persons excommunicate, being for their obstinacy committed to prison, and unlawfully

lawfully delivered thence, before they have given caution to obey the authority of the Church, are commanded to be sought for and layd up againe. *Regist. origin.*
fol. 57, a.

Executione facienda, is a writ commanding execution of a judgment : the divers uses whereof see in the table of the Register judiciall, *verbo Executione facienda*.

Executione facienda in Withernamium, is a writ that lyeth for the taking of his cattell that formerly hath conveyed out of the County the cattell of another ; so that the Bailiffe having authoritie from the Sheriff to replevie the cattell so conveyed away , could not execute his charge. *Reg. orig.*
fol. 82 b.

Execution (executio) in the common Law , signifieth the last performance of an act, as of a fine, or of a judgement. And the execution of a fine , is the obtaining of actuall possession of the things contained in the same, by vertue thereof : which is either by entry into the lands , or by writ : whereof see *West at large, part. 2.* *Symbol. titulo Fines*, Sect. 136, 137, 138. Executing of judgements and statutes, and such like, see in *Fitzherb. nat.br. in Indice 2,* *Verbo Execution.* *S. Edw. Coke, vol. 6, casu Blumfield, fol. 87, a.* maketh two sorts of Executions :

one finall, another with a (*Quousque*) tending to an end. An Execution finall is that which maketh money of the defendants goods, or extendeth his lands , and delivereth them to the plaintiffe. For this the party accepteth in satisfaction, and this is the end of the suit , and all that the Kings writ commandeth to be done. The other sort with a (*Quousque*) is tending to an end, and not finall ; as in the case of (*capias ad satisfaciendum, &c.*) this is not finall, but the body of the party is to bee taken , to the intent and purpose to satisfie the Demandant : and his imprisonment is not absolute, but until the defendant do satisfie, *Idem, ibid.*

Executor (executor) is he that is appointed by any man in his last will and Testament , to have the disposing of all his substance, according to the content of the sayd will. This Executor is either particular or universall. *Particular*, as if this or that thing onely be committed to his charge; *Universall* , if all. And this is in the place of him whom the Civilians call *Heredem*, and the Law accounteth one person with the party whose Executor hee is, as having all advantage of action against all men , that hee had, so likewise being subject to every mans action , as farre as himselfe was. This Executor had

his beginning in the Civill Law, by the constitutions of the Emperours, who first permitted those, that thought good by their wills to bestow any thing upon good and godly uses, to appoint whom they pleased to see the same performed: and if they appointed none, then they ordained that the Bishop of the place should have authority of course to effect it, lib. 28. c. de Episcopis & Clericis. And from this in myne opinion, time and experience hath wrought out the use of these universall Executors, as also brought the Administration of their goods that dye without Will, unto the Bishop.

Exemplificatione is a writ granted for the exemplification of an original. See the Register original fol. 290.

Ex gravi querela, is a writ that lieth for him unto whom any lands or tenements in fee, within a city, towne, or Borough, being devisable, are devised by will, and the heire of the Deviseour entreth into them, and detaineth them from him. Register originall, fol. 244. Old Natura brevium, fol. 87. See Fitzb. nat. brev. fol. 198. L.

Exigendarie of the Common bank (*Exigendarius de banco communi*) is otherwise called *Exigenter*, anno 10. Hen. 6. cap. 4. and is an officer belonging to that

Court. For the which see *Exigenter*.

Exigent, (*Exigenda*) is a writ that lieth where the Defendant in an Action personal cannot bee found, nor any thing within the County, wherby to be attached or distrained, and is directed to the Sheriff, to proclaime and call five County dayes one after an other, charging him to appeare under the paine of Outlawry. *Terms of the Law*. This writ lieth also in an indictment of Felony, where the party indicted cannot be found. *Smith de republ. Engl. lib. 2. cap. 19.* It seemeth to be calld an *Exigent*, because it exacteth the party, that is, requireth his appearance or forth-comming to answer the Law, for if hee come not at the last dayes proclamation, he is said to be *quinqüies exactus*, and then is out-lawed. *Cromp. Jurisdic. fol. 188.* And this M. *Mamwood* also setteth downe for the Law of the Forest, par. 1, of his Forest laws, p. 71. See the new book of Entries, verbo *Exigent*.

Exigenter (*Exigendarius*) anno 18 Hen. 6. cap. 9. is an officer of the Court of Common pleas, of whom there be foure in number: They make all Exigents and proclamations in all Actions, where processe of outlawry doth lie, and writs of *Supercedens*, as well

as well as the Protonotaries, upon such Exigents as were made in their offices.

Ex mero motu are words formerly used in any Charter of the Prince, whereby he signifieth, that he doth that which is contained in the Charter, of his owne will and motion, without petition or suggestion made by any other. And the effect of these words are to bar all exceptions that might be taken unto the instrument wherein they be contained, by alledging that the Prince in passing that charter was abused by any false suggestion. *Kitchin* fol. 152.

Exonerations facta, is a writ that lieth for the Kings Ward to be disburthened of all suit, &c. to the County, Hundred, Leet, or Court Baron, during the time of his wardship. *Fitz. Nat. br.* fol. 158.

Ex parte letis, is a writ that lyeth for a Baylife or receiver, that having Auditors assigned to heare his account, cannot obtaine of them reasonable allowance, but is cast into prison by them. *Regist. fol. 137. Fitzb. nat. brev. fol. 129.* The manner in this case is to take this writ out of the Chancerie, directed to the Sheriffe, to take four Mainpervours to bring his body before the Barons of the Exchequer at a day certaine, and to warne the Lord to appeare at the same time. *New*

Termes of the Law, *verba Account.*

Expectant is used in the Common law with this word (see) and thus used it is opposite to Fee simple. For example, lands are given to a man and his wife in frank~~e~~ mariage, to have and to hold to them and their heires. In this case they have fee simple. But if it bee given to them and the heyres of their body, &c. they have tayle, and fee expectant. *Kitchin, fol. 153. Mathew de afflictis* useth the Adjective (*expectativa*) substantively in the same signification. *Descis. 292. num. 2. p. 412.*

Exples, see *Esples*.

Expedite (*expeditare*) is a word usuall in the Forest, signifying, to cut out the balls of the great dogs feet, for the preservation of the Kings game. Every one that keepeth any great dogs not expeditated, forfeiteth to the King three shillings four pence, *Cromp. Jurisdict. fol. 152. M. Manwood* useth the same word, *parte prim.* of his Forest Lawes, pag. 205, and pag. 212. hee setteth downe the manner of expediting dogges heretofore, viz. *Quod tres ortelli abscindantur five pellota de pede anteriori*; that is, that the three clawes of the forefoot on the right side shall be cut off by the skin: whereunto he also addeth

addeth out of the same ordinance, called the Assise of the Forest, that the same manner of expeditating of dogs shall be stil used and kept, and none other. Quere whence it groweth that Master Crompton and hee differ ; the one saying that the ball of the foot is cut out : the other, that the three fore clawes are pared off by the skin.

Expensis militum levandis, is a writ directed to the Sheriffe, for levying allowance for the Knights of the Parliament. *Regist. orig. fol. 191, b.*

Expensis militum non levandis ab hominibus de antiquo dominico, nec à nativis, is a writ whereby to prohibit the Sheriffe from levying any allowance for the Knights of the shire, upon those that hold in ancient Demesne, &c. *Reg. orig. fol. 261, b.*

Extend (*extendere*) commeth of the French (*estendre*, i. *dilatare, dispendere, distendere*) and signifyeth in our common Law, to value the lands or tenements of one bound by Statute, &c. that hath forfeited his bond, to such an indifferent rate, as by the yearely rent the Obligor may in time bee payd his debt. The course and circumstances of this see in *Fitzherb. nat. bre. fol. 131.* *Brief d'execution sur statut Merchant.*

Extendi facias, is a writ ordi-

narily called a writ of Extent, whereby the value of lands, &c. is commanded to be made and levied in divers cases, which see in the table of the *Register original*.

Extent (*extenta*) hath two significations, sometimes signifying a writ or commission to the Sheriffe for the valuing of Lands or tenements. *Register judiciall*, in the table of the booke. Sometime the Act of the Sheriffe or other Commissioner, upon this writ. *Brooke, titulo Extent. fol. 313.*

Extinguishment, in our common Law, signifieth an effect of consolidation. For example, if a man have due unto him a yearly rent out of any lands, and afterward purchase the same lands, now both the propertie and rent are consolidated, or united in one possessor, and therefore the rent is said to bee extinguished. In like manner it is, where a man hath a lease for years and afterwards buyeth the propertie, this is a consolidation of the property and the fruits, and is an extinguishment of the lease. See the *Terms of Law*.

Extirpatione, is a writ judiciall that lieth against him, who after a verdict found against him for land, &c. doth maliciously overthrow any house upon it, &c. and it is two-fold, one *ante judicium*,

cium, the other post judicium : Register judiciall, fol. 13.56.58.

Extortion (Extortio) signifieth in our common Law, an unlawfull or violent wringing of money or money worth from any man. For example, if any officer by terrifying any the Kings subjects in his office, take more than his ordinary duties, hee committeth, and is inditeable of Extortion: To this (by M. Wests judgement) may be referred the exactiōn of unlawfull Usurie, winning by unlawfull Games, and (in one word) all taking of more than is due, by colour, or pretence of right: as excessive toll in Millers, excessive prizes of Ale, Bread, Victuals, Wares, &c. West. parte 2. Symbol. titulo Indictments, Sect. 65. M. Manwood saith, that Extortion is *Colore officii*, and not *virtute officii*, parte 1. of his Forest lawes, pag. 216. M. Crompton in his Justice of peace, fol. 8. hath these words in effect: Wrong done by any man, is properly a Trespass: but excessive wrong done by any is called Extortion: and this is most properly in Officers, as Sheriffes, Maiors, Bailiffes, Escheatours, and other Officers whatsoever, that by colour of their Office worke great oppression, and excessive wrong unto the Kings subjects, in taking excessive reward, or fees, for the execution of their office. Great diversity of

cases touching Extortion, you may see in Cromptons Justice of peace, fo. 48.b. & 49. & 50. See the difference betweene *colore officii*, & *virtute vel ratione officii*. P'ow. casu. Dives, fol. 64. a. This word is used in the same signification in Italy also. For *Cavalcanus de brackio regio*, parte 5. num. 21, thus describeth it: *Extortio dicitur fieri quando Judex cogit aliquid sibi dari quod non est debitum, vel quod est ultra debitum: vel ante tempus petit id, quod post administratam justitiam debetur.*

Extreats. See *Estreates*.

Eyre. See *Eire*.

F. A.

Faculty, (Facultas) as it is restrained from the originall and active signification, to a particular understanding in Law, is used for a priviledge, or especiall power granted unto a man by favour, indulgence and dispensation, to doe that which by the common Law hee cannot doe: as to eate flesh upon dayes prohibited, to marry without Banes first asked; to hold two, or more Ecclesiastical Livings, the Son to succeed the Father in a Benefice, and such like. And for the granting of these, there is an especiall Officer under the Archbishop of Canterbury, called (*Magister ad Facultates*) the Master of the Faculties.

Fag; anno 4. Ed. 4. cap. 1.

Faint and false action, seeme to be *Synonyma* in *Littleton*, fol. 144. for (*faint*) in the French tongue signifieth as much as (*fained*) in English.

Faint pleader (*falsa placitatio*) commeth of the French (*feint*) a Participle of the verbe (*feindre*. i. *simulare*, *fingere*) and (*pleadoir*. i. *placitare*.) It signifieth with us, a false covenous, or collusory maner of pleading, to the deceit of a third party, *anno 34. & 35. H.8. cap. 24.*

Faire, alias Feire, (*feria*) commeth of the French (*foire*) and signifieth with us, as much as (*Nundinæ*) with the Civilians: that is a solemne, or greater sort of Market, granted to any Towne by priviledge, for the more speddie and commodious provision of such things, as the subject needeth, or the utterance of such things, as we abound in, above our owne uses and occasions: both our English and the French word seeme to come of (*Feriae*) because it is alwayes incident to the priviledge of a Faire, that a man may not bee arrested or molested in it for any other debt, than first was contracted in the same, or at least was promised to bee payed there, *anno 17. Ed. 4. cap. 2. & anno 1. R. 3. cap. 6.*

Faire pleading, see *Baron pleader*.

Faitours, seemeth to be a French word antiquated, or something traduced. For the modern French word is (*faiseur*. i. *factor*.) It is used in the Statute, *anno 7. R. 2. cap. 5.* And in the evill part, signifying a bad doer. Or it may not improbably bee interpreted an idle liver, taken from (*faictardise*) which signifieth a kinde of numme or sleepy disease, proceeding of too much sluggishnesse, which the Latines call (*veterism*.) For in the said statute it seemeth to be a Synonymon to Vagabond.

Falke land, alias Folkland. See *Copy-hold* and *Free-hold*.

False imprisonment (*falsum imprisonmentum*) is a trespass committed against a man, by imprisoning him without lawfull cause: it is also used for the writ which is brought upon this trespass, *Fitzb. nat. brev. fol. 86. K. & 88. P. v. Broke b. t.* See the new booke of Entries, *verbo False imprisonment*.

Falso judicio, is a writ, that lyeth for false judgement given in the County, Hundred, Court Baron, or other Courts, being no Court of Record, be the plea reall or personall, *Regist. orig. fol. 15. Fitzb. nat. br. fol. 17.* See the new booke of Entries, *verbo False judgement*.

False prophecies. See *Prophecies*.

Falso returno brevium, is a writ lying

lying against the Sheriff for false returning of writs, *Reg. judic.* fol. 43 b.

Falsifie, seemeth to signifie as much, as to prove a thing to be false, *Perkins Dower*, 383, 384, 385.

Farding, or farthing of gold, seemeth to bee a Coyne used in ancient times, containing in value the fourth part of a Noble, viz. twenty pence silver, and in weight the sixth part of an ounce of gold, that is, of five shillings in silver, which is three pence and something more. This word is found, anno 9 H 5, statut. 2. ca. 7, thus : Item, that the king doe to bee ordained good and just weight, of the noble, halfe noble, and farthing of gold, with the rates necessary to the same, for every city, &c. By which place it plain y appeareth to have been a Coin, as well as the noble and half noble.

Farding deal, alias Farundell of land (*Quadrantata terre*) signifieth the fourth part of an Acre, *Cromptons Jurisdict.* fol. 220. *Quadrantata terra* is read in the *Regist.* orig. fo. 1, b. where you have also *Denariata et obolata, solidata et librata terre*; which by probabilitie must rise in proportion of quantity from the farding deale, as an halfpenny, penny, shilling, or pound rise in value and estimation; then must *obolata* be halfe an acre,

denariata an acre, *solidata* twelve acres, and *librata* twelve score acres. And yet I finde *viginti libratas terra vel redditus*. Register orig. fol. 94 a et fo. 248 b. Wherby it seemeth, that *Librata terre* is so much as yeeldeth twenty shillings per annum ; and *centum solidatas terrarum tenementorum et reddituum*, fol. 249 a. And in *Fitzb. Nat. Brev.* fo. 87 f. I finde these words, *viginti libratas terra vel redditus*, which argueth it to be so much land as twenty shillings per annum. See *Furlong*.

Fate or Fat, is a great wooden vessell which among Brewers in London is ordinarily used at this day, to measure Mault by, containing a Quarter, which they have for expedition in measuring. This word is read, *Anno 1 H. 5, cap. 10. et anno 11 H. 6, ca. 8.*

Fealtie (*Fidelitas*) commeth of the French *feaulte*, i. *fides*; and signifieth in our Common Law, an oath taken at the admittance of every Tenant, to bee true to the Lord of whom hee holdeth his land. And hee that holdeth land by this onely oath of fealty, holdeth in the freest manner that any man in England under the king may hold. Because all with us that have fee, hold *per fidem & fiduciam*, that is, by fealty at the least. *Smith de republ. Anglor.* li. 3,

cap. 8. for fidelitas est de substantia feudi, as Duarenus saith de feudi. cap. 2. num. 4. and Matheus de afflictis decis. 320: num. 4. pag. 465. saith that fidelitas est substantia feudi, non servitium. The particulars of this oath, as it is used among the Feudists, you may reade well expressed by Zasius in his Tractate de feudis. parte 7. nn. 15, & 16. which is worth the comparing with the usuall oath taken here in our part of Britanie. This fealty is also used in other nations, as the Lombards and Burgundians. Cassanus de consuet. Burgund. pag. 419, & 420. And indeed the very first creation of this tenure, as it grew from the love of the Lord toward his followers, so did it bind the tenant to fidelity, as appeareth by the whol course of the Feeds. And the breach thereof is losse of the fee Duarenus in Commentariis feudorum, ca. 14. nn. 11. & Wesenbechius in tract. de feudis ca. 15. nn. 4. & seqq. Antonius Contius in methodo feudorum cap. Quibus modis feendum amittitur. Hotoman in his Commentaries (De verbis feudalibus) sheweth a double fealty: one generall, to be performed in every subject to his Prince: the other speciall, required onely of such, as in respect of their fee, are tyed by this oath toward their Land-lords: both wee may reade of in the Grand Custumary

of Normandy, being of course performed to the Duke, by all resient within the Dutchie. The effect of the words turned into Latine by the Interpreter, is this: Fidelitatem autem tenentur omnes residentes in Provincia Ducis facere & servare: Unde tenentur se. ei innocuos in omnibus & fideles exhibere, nec aliquid ipsum incommodi procurare: nec ejus inimicis præbere, contra ipsum consilium vel iuvamine & quæ ex hoc inventi fuerint ex causa manifesta, notabiles & tradidores Principis reputantur. Et omnes eorum possessiones perpetuae Principi remanebunt, si super hoc convicti fuerint vel damsgati: Omnes enim in Normania tenentur Principi fidelitatem obseruare. Unde nullus homagium vel fidelitatem alicujus potest recipere, nisi salua Principis fidelitate. Quod etiam est in eorum receptione specialiter exprimendum. Inter Dominos autem alios & homines fides taliter debet observari, quod noster in personam alterius personalem violentiam, seu percusionis injectiōnem cum violentia, debet irrogari. Si quis enim eorum ex hoc fuerit accusatus in curia & convictus, feendum omne debet amittere, &c. This fealty speciall is with us performed either by Free-men or by Villaines. The forme of both see anno 14. Edw. 1. stat. 2. in these words: When a Free-man shall do fealty to his Lord,

Lord, hee shall hold his right hand upon a booke, and shall say thus: Hear you my Lord *R.* that *I. P.* shall be to you both faithfull and true, and shall owe my fealty to you for the Land that I hold of you at the termes assigued: So helpe mee God and all his Saints. When a villaine shall do fealty unto his Lord, hee shall hold his right hand over the booke, and shall say thus: Hear you my Lord *A.* that *I. B.* from this day forth unto you shall be true and faithfull, and shall owe you fealty for the Land that I hold of you in Villenage, and shall bee justified by you in body and goods: So helpe mee God and all his Saints. See the Regist.

orig. fol. 302. a.

Fee (*Feodum*, alias *Feudum*) commeth of the French (*fief*. i. *predium beneficiarum, vel res cli- entelaris*) and is used in our common Law, for all those lands which wee hold by perpetuall right: as *Hotoman* well noteth, *verb. Feodum, de verbis feudalibus.* Our ancient Lawyers, either not observing whence the word grew, or at least, not sufficiently expressing their knowledg, what it signified among them, from whom they tooke it. *Feu- dum*, whence the word (*Fief*) or fee commeth, signifieth in the German language: (*beneficium cuius non sine opera quedam gratie testi-*

ficande causa debentur, Hot. dispe- cap. 1. And by this name go all lands and tenements, that are held by any acknowledgement of any superiority to a higher Lord. They that write of this subject, do divide all Lands and Tene- ments, wherein a man hath a perpetuall estate to him and His heires, &c. into *Allodium & Feu- dum*. *Allodium* is defined to be every mans owne land, &c. which hee possesseth merely in his owne right, without acknow- ledgement of any service, or pay- ment of any rent unto any other, and this is a property in the highest degree, and of some it is called (*Allodium ab à privativa particula, & laudum vel laudatio ut sit predium cuius nullus author est nisi deus.* *Est enim landare vel Novio teste, nominare.* *Quod & Budæus docuit ad Modestinum. l. Herennius 63. n. de herc. in situ. Pratam, ierbo Allodium. Homo- man in verb. feud.* *Feudum* is that, which wee hold by the benefit of another, and in the name whereof wee owe service, or pay rent, or both, to a superior Lord. And all our land here in Eng- land (the Crowne land which is in the Kings owne hands in the right of his Crowne excepted) is in the nature of *Feudum* or fee, for though many a man hath land by descent from the Ancestours, and many another hath

dearely bought land for his money, yet is the land of such nature, that it cannot come to any, either by descent or purchase, but with the burthen that was laid upon him, who had novell fee, or first of all received it as a benefit from his Lord, to him and to all such, to whom it might descend, or any way be conveyed from him. So that if we will reckon with our Host (as the proverbe is) there is no man here, that hath *directum dominium*. i. the very propertie or *demeaine* in any Land, but the Prince in the right of his Crowne. *Cand. Brittan.* pag. 93. for though hee that hath fee, hath *jus perpetuum & utile dominium*: yet hee oweth a dutie for it: and therefore is it not simply his owne. Which thing I take those words, that wee use for the expressing of our deepest rights in any lands or tenements, to import: for hee that can say most for his estate, saith thus: I am seised of this or that land or tenement in my demaine as of fee. *Seisitus inde in dominico meo ut de feudo*, and that is as much, as if hee said, it is my demaine or proper land after a sort: because it is to mee and mine heires for ever: yet not simply mine, because I hold it in the nature of a benefit from another, yet the statute anno 37. H. 8. cap. 16. useth these words of lands invested in the Crowne:

but it proceedeth from the ignorance of the nature of this word (*Fee*) for fee cannot be without fealty sworne to a superior, as you may read partly in the word (*Fealtie*) but more at large in those that write *de feudis*: and namely *Hotoman*, both in his Commentaries and Disputations. And no man may grant, that our King or Crowne oweth fealty to any superior but God onely. Yet it may be said, that land, &c. with us is termed fee in two respects: one, as it belongeth to us and our heires for ever: and so may the Crowne lands be called Fee: the other as it holdeth of another, which is, and must be farre from our Crowne *Britton* cap. 32. defineth fee to this effect. Fee is a right consisting in the person of the true heire, or of some other, that by just title hath purchased it. *Fleta* saith that *Feudum est quod quis tenet ex quacunq; causa sibi & heredibus suis, sive sit tene- mentum sive redditus, qui non provenient ex camera, & alio modo dicitur feudum, sicut ejus qui feoffat, & quod quis tenet ab alio sicut dicitur: talis tenet de tali tot feuda per ser- vitium militare. li. 5. ca. 5. §. Feudum autem: And all that write *de feudis*, do hold that (*Feudarium*) hath not an entire property in his fee: Nay it is held by right learned men, that these fees were at the first invention or creation*

of them, either all or some of them temporary, and not perpetuall and hereditary, *Jacobutum, de Franchis in prestatio fendi. ca. 2, no 133.* The divisions of fee in divers respects are many, and those though little knowne to us in England, yet better worthy to bee knowne, than wee commonly thinke. But for our present purpose, it is sufficient to divide Fee into two sorts, Fee absolute, otherwise called Fee simple, and fee conditionall, otherwise termed Fee taile. Fee simple (*Fendum simplex*) is that whereof wee are seised in these generall words, To us and our heires for ever. Fee taile, *Fendum taliatum*, is that whereof wee are seised to us and our heires with limitation, that is, the heires of our body, &c. And Fee taile is either generall or speciaill. Generall is, where land is given to a man and the heires of his body. The reason whereof is given by *Littleton, ca. 2, li. 1*, because a man seised of land by such a gift, if hee marry one or more wives, and have no issue by them, and at length marry another by whom hee hath issue, this issue shall inherit the Land. Fee tayle speciaill is that, where a man and his wife bee seised of lands to them and the heires of their two bodies. The reason is like-

wise given by *Littleton* in the same place, because in this case, the wife dying without issue, and hee marrying another, by whom hee hath issue, this issue cannot inherit the land, being specially given to such heires, &c. This Fee taile hath the originall from the statute of Westminster 2, cap. pri. which was made anno 13 Edw. 1. Yet see *Braetton, lib. 2, ca. 5, num. 3. in his verbis : Item quadam abso-luta & larga, et quadam stricta et coarctata, sicut certis heredibus.* To whom adde *Plowden, casu Willion, fo. 235, a, b, & seq.* for before that statute, all land given to a man and his heires, either generall or speciaill, was accounted in the nature of fee, and therefore held to bee so firmly in him to whom it was given, that any limitation notwithstanding, hee might alienate and sell it at his pleasure : much like that which the Civilians call *Nudum praeceptum*, binding rather by counsell and advice, than compulsion or restraint. And this thing seeming unreasonable to the wisedome of our Realme, because so a man meaning well to this or that posteritie of himselfe or his friends, might be forthwith deceived of his intention, the said statute was made for redresse of this inconvenience, whereby it is ordained, that if a man give lands in fee, limiting the heires to whome it shall descend, with a reversi-

on to himselfe or his heires for default , &c. that the forme and true meaning of his gift , shall be obserued. Wherefore in what conscience our Lawyers have invented meanes , so easily to cut off this forme of gift , it is to bee considered. Hee that hath Fee then , holdeth of another by some duty or other , which is called service , and of this service and the diversity thereof. See *Chivalrie* and *Service*. Hee that will learne from what Fountaine these Feuds or fees did first spring let him read *Antonius Contius* his first chapter *de methodo feudorum*, where he shall receive great light for his guide into so obscure a dungeon. See *Leige*. This word, (*Fee*) is sometimes used with us, for the compasse or circuit of a Lordship or Manner. *Braclton lib. 2. cap. 5.* in these words: *In eadem villa & de eodem feodo*. Thirdly it is used for a perpetuall right incorporeall : as to have the keeping of Prisons in Fee. *Old nat. br. fol. 41.* Foster in fee , *cod. fo. 6.* Rent graunted in fee , *cod. fo. 8.* Sheriffe in fee. *anno 28. Ed. I. stat. 3. cap. 8.* Lastly , Fee signifieth a reward or ordinary duty , that a man hath given him for the execution of his office , or the performance of his industrie in his art or science: as the Lawyer or the physitian is said to have his Fee , when he hath the considera-

tion of his paines taken , the one with his Client , the other with his Patient.

Fee expectant , is by the Feudists termed *feudum expectativum*, or *expectativa*, substantively used, *Mathew de Afflictis decis. 292. m. 2. pag. 417.* See *expectant*.

Fee ferme (*feudi firma*) is a compound of *Fee*, whereof see (*Fee*) and (*ferme i. colonia, villa predium, rusticum* of (*Ferme*) commeth *Fermier du prince i. manceps, redemptor publicorum vectigalium, Publicanus*) *Fee ferm* signifieth in our common Law , land held of another in fee , that is in perpetuitie to himselfe and his heires, for so much yeerely rent , as it is reasonably worth , more or lesse, so it be the fourth part of the worth, *old tenures*. See exposition of the Statute of *Glocester, anno 6: Edw. I.* without homage, fealtie, or other services , other than be especially comprised in the feoffement , but by *Fitzb.* it seemeth that the third part of the value may bee appointed for the rent, or the finding of a Chaplaine to sing divine Service , &c. *nat. br. fol. 210. C.* And the nature of it is this , that if the rent be behind and unpaid for the space of two yeares , then the feoffour or his heires have action to recover the lands as their demesnes: *Britton. cap. 66. num. 4.* but observe out of *West. symbol. par. 1. lib. 2. sect. 463.* that

that the feofment may containe services and fuit of Court, as well as rent. And the author of the new Termes of law saith, That Fee-Ferme oweth Fealty, though not expressed in the feoffement, for that fealty belongeth to all kinde of tenures. This is neere the nature of that which among the Civilians is called *ager vettigalis*, qui in perpetuum licetur, i. bac lege ut quam diu pro eo vettigal penderat, tam diuineq; ipsis qui conduxerunt, neque in qui in locum eorum successerunt, auferri cum liceat. l. 1. n. si ager vettigali, &c.

Feeede (fesda alias faida) signifieth in the Germane tongue, Guer-ram, i. capitales inimicitias vel bellū. Hotoman disputat de feudis, c. 1. 2. b. Fœmina dicitur faidam non facere, Gloss. in ult. de lege Conradi lib. 2, de feudis, by reason that women by the law are not subject to warfare, to battell, or proclamation made for that cause. Skene, de verbo signif. verbo Affiditio. Master Lambert in his exposition of Saxon words writeth it *Feeth*, and sayth likewise that it signifieth *Capitales inimicitias*. And also that *Feud*, used now in Scotland and the North parts of England, is the same, that is, a combination of kindred, to revenge the death of any of their bloud, agaist the killer and all his race.

Felony (felonia). seemeth to come of the French Feloni-

nie, i. impetuositas, atrocitas, immisericordia. Felonia, sayth Hotoman, de verbis feudalibus, non præscie contumaciam vasalli in dominum, bujusve in vasallum perfidiam significat, verum quodvis capitale facinus. And againe, Felonia Gothis & Longobardis dicitur quod Germanis bodie Schelmarey, Latinis Scelus. Sir Edward Coke saith thus, Ideo dicta est feloniz qua fieri debet felleo animo, lib. 4. fo. 124 b. Hostiensis in sua summ. titulo, De Fendis. And others speake of this to this effect: Felonia, alias falonia, est culpa vel injuria, propter quam vassallus amittit feendum. Sed bac respicit Dominum feudi. Est & alias fallonia que non respicit Dominum: sc. quando vassallus interficit fratrem vel filium suum, vel filium fratri, vel aliud crimen commisit quod paricidii appellatione continetur, & plures aliae fallonia tam respicientes Dominum, quam alios propter quas feendum amittitur ibi notantur. Wee account any offence felony, that is in degree next unto petit treason, and compriseth divers particulars under it, as murther, theft, killing of a mans selfe, Sodomy, Rape, wilfull burning of houses, and divers such like, which are to be gathered especially out of statutes, wherby many offences are daily made felony, that before were not. Felony is discerned fr̄ lighter

lighter offences by this, that the punishment thereof is death. How be it this is not perpetuall. For *petit larcenie*, (which is the stealing of any thing under the value of twelve pence) is felony, as appeareth by *Broke titulo Coron. num. 2.* his reason is, because the Inditeement against such a one must runne with these words, (*felonice cepit*) and yet is this not punished by death though it be losse of goods. Any other exception I know not, but that a man may call that *felony*, which is under *petit treason*, and punished by death. And of this there be two sorts: one lighter, that for the first time may be relieved by *Cleargie*, another that may not. And these you must also learne to know by the Statutes: for *Cleargy* is allowed, where it is not expressly taken away. Of these matters reade *Stawnsfords* first booke of his *pl. cor.* from the end of the second Chapter, to the 39. and the Statutes whereby many offences bee made felony, since he writ that learned Booke. See also *Lamberds Justice of peace*, lib. 2. cap. 7. in a Table drawne for the purpose. As also lib. 4. ca. 4 pag. 404. and *Cromptons* in his *Justice of Peace*. fol. 32. &c. Felony is also punished by losse of Lands not entailed, and goods or chattels, as well reall as personall: and

yet the Statutes make difference in some cases touching Lands, as appeareth by the Statute, anno 37. H. 8. ca. 6. Felony ordinarily worketh corruption of blood, though not, where a Statute ordaineth an offence to bee felonie, and yet withall saith, that it shall not worke corruption of blood. As anno 39. Elizab. ca. 17. How many wayes Felony is committed, See *Cromptons Justice of peace*, pag. 32. &c.

Fare, See *Fayre*.

Felode se, is he that committeth felony by murthering himselfe. See *Cromptons Justice of Peace*, fol. 28. and *Lamberds Encyclopaedia*. lib. 2. ca. 7. pag. 243.

Fencemoneth, is a moneth, wherein it is unlawfull to hunt in the Forest, because in that moneth the Female Deere doe faune: and this moneth beginneth 15 dayes before Midsomer, and endeth 15 dayes after. So that to this moneth there be 31 dayes. See *Mazwood parte prim.* of his *Forest Lawes*, pag. 80. but more at large *parte secunda cap. 13. per totum*. It is also called the defence moneth, that is, the forbidden moneth, and the word defence is used in like sort. West. 2. ca. 47. anno 13. Ed. 1. in these words: All waters where Salmons bee taken, shall be in defence for taking of Salmons from the Nativitie, &c.

Fennycricke, or rather *Fene-greeke*, (*Fenum Graecum*) is a medicinall plant or herbe, so called, because it groweth like Hey, and commeth out of Greece. Of this you may reade more in *Gerards herball*, lib. 2. cap. 483. The seed therof is reckoned among drugs, that are to be garbled, anno 1. Jacob. cap. 19.

Feofiment (*feoffamentum*) by the opinion of Sir Thomas Smith de *Repub. Anglor.* lib. 3. cap. 8. and *M. West parte prim. symbol.* lib. 2. Sect. 280. is descended from the Gotthish word (*Feudum*) which you have interpreted in (*Fee*) and signifieth (*donatio cum feudi*). But (as *M. West* also addeth) it signifieth in our common Law, any gift, or grant of any Honors, Castles, Manors, Messages, Lands, or other corporall and immovable things of like nature, unto another in fee simple, that is to him and his heires for ever, by the delivery of seisin and possession of the thing given, whether the gift bee made by word or writing. And when it is in writing, it is called a deed of feofiment, and in every feofiment the giver is called the Feoffour (*feofator*), and he that receiveth by vertue thereof, the Feoffee (*feofatus*), and *Littleton* saith, that the proper difference betweene a Feoffour and a Donour is, that the Feoffour giveth in fee-simple,

the Donour in fee-taile, lib. 1. cap. 16.

Feodarie, alias, *Feudarie*, aliatis, *fendatarie*, (*feudatarius*) is an officer authorized and made by the Master of the Court of Wards and Liveries, by Letters patents under the Seal of that office. His function is to be present with the Escheatour at the finding of any office, and to give evidence for the King as well concerning the value, as the tenure, and also to survey the land of the Ward, after the office found, and to rate it. He is also to assigne the Kings widowes their Dowers, and to receive all the rents of the Wards lands, within his circuit, and to answer them to the Receiver of the Court of Wards and Liveries. This officer is mentioned anno 32. H. 8. cap. 46.

Ferdare, significat quietantiam mundi in exercitum. *Fless*, libr. pri. cap. 47.

Ferdavit, significat quietantiam murdri in exercitu. *Fleta*, libr. pri. cap. 47.

Ferm (*firma*) commeth of the French (*Ferme*, i. *colonia*, *villa*, *praedium*,) and signifieth with us, house or land, or both, taken by Indenture of lease, or lease parol. It may likewise not unaptly be conjectured, that both the French and English word came from the Latine (*fimus*) for (*locare*

ad firmum.) I finde sometime to signifie with others, as much as (to set or let to farme) with us. The reason whereof may be in respect of the sure hold they have above tenents at will, *v. vocabul. strinjsque juris, verba afflictus.* The Author of the new Termes of Law, deriveth this word from the Saxon (*feormian*) which signifieth, to feed or yeeld victuall. For in ancient time the reservations were as well in victuals as money, which I leave to the judgement of the Reader. How many wayes ferme is taken. See *Plovoden, casse Wrotbesley, fol. 195. a. b.*

Fendarie. See *Feodarie.*

Fieri facias, is a writ judiciall, that lyeth at all times within the yeare and day, for him that hath recovered in an action of debt, or dammages, to the Sheriffe, to command him to levie the debt, or the dammages of his goods, against whom the recovery was had. This writ hath beginning from *Westm. 2. cap. 18. anno 13. Ed. 1.* See *Old nat. br. fol. 15. 2.* See great diversitie thereof in the Table of the Register Judiciall. *verbo. Fieri facias.*

Fifteenth (Decimaquinta) is a tribute, or imposition of money laid upon any Citie, Borough, and other Towne through the Realme, not by the polle, or upon

this or that man, but in generall, upon the whole Citie or Town; so called, because it amounteth to one fifteenth part of that, which the City or Towne hath beene valued at of old. This is now a dayes imposed by Parliament: and every Towne through the Realme, greater or lesse, knoweth what a fifteenth for themselves doth amount unto, because it is perpetnall: whereas the Subsidie, which is raised of every particular mans lands or goods, must needs bee uncertaine, because the estate of every severall man is so ticklish and uncertaine. And in that regard am I driven to thinke that this fifteenth is a rate anciently laid upon every Towne, according to the land or circuit belonging unto it; whereof M. Camden hath many mentions in his *Britannia.* In stead of the rest, take a few, *page 168. of Welz in Somersetshire he writeth thus: Quo tempore, ut testatur censuialis Anglie liber, Episcopus ipsum oppidum tenuit, quod pro quinquaginta bidis geldavit: And pag. 171. of Bath. Geldabat pro viginti bidis, quando Schira geldabat.* Thirdly, *pag. 181. of old Sarisbury thus: Pro quinquaginta bidis geldabat.* And these rates were taken out of Doomes day in the Eschequer; so that this seemed in old time, to be a yearly tribute in certaintie, whereas now, though the rate be certaine,

certaine, yet it is not levied but by parliament. See *Taskē*. See *Quinsie me.*

Filazer (*filazarins*) commeth of the French *Pilace*, i. *filum filacium*. It is an officer in the Common plees, whereof there bee fourteene in number. They make out all originall processe, as well reall, as personal and mixt: and in actions merely personall, where the defendants bee returned or summoned, there goeth out the distresse infinite untill appearance. If hee be returned *Nibil*, then processe of *Capias infinite*, if the Plaintiffe will, or after the third *Capias*, the Plaintiffe may goe to the Exigenter of the shire, where his Originall is grounded, and have an Exigent or proclamation made. And also the Filazer maketh forth all writs of view in cautes, where the view is prayed: he is also allowed to enter the imparlance, or the generall issue in common actions, where appearance is made with him; and also judgement by confession in any of them before issue bee joyned: and to make out writs of execution thereupon. But although they entred the issue, yet the Protonotary must enter the judgement, if it be after verdict. They also make writs of *Supersedas*, in case where the Defendant appeareth in their offices, after the *Ca-*

piss awarded.

Filst ale: see *Sothale*.

File (*Filacium*) is a thread or twyer, whereon writs or other Exhibits in courts are fastned, for the more safe keeping of them.

Finders, anno 18. Edm. 3. stat. 1. cap. union. anno 14. Ric. 2. cap. 10. seeme to be all one with those, which in these dayes wee call *Searchers*.

Fine (*finis*) commeth of the French (*fin*. i. *finis*) and hath divers applications in our common Law: sometimes being used for a formall or ceremonious conveyance of Lands or Tenements, or (as West saith, *titulo Fines*, sect. 25.) of any thing inheritable, being *in esse tempore finis*, to the end to cut off all controversies. (West. parte 2. *symbol*. sect. 1. defineth a Fine in this signification: covenants made before Justices, and entred of Record. And out of *Glanvile* thus, lib. 8. cap. 1. *Finis est amicabiliti compositio & finalis concordia, ex consensu & licentia Domini Regis, vel ejus Justiciariorum*. And lib. 9. cap. 3. *Talis concordia finalis dicitur, eo quod finem imponit negotio, adeo ut neutra pars litigantium ab eo de cetero poterit recedere*. And out of *Bracon*, lib. 5. tract. 5. cap. 28. num. 7. thus: *Finis ideo dicitur finalis concordia, quia imponit finem litibus, & est exceptio peremptoria*. The Author of

the new Termes of Law, defineth it to be a finall agreement had betweene persons concerning any Land or Tement, or other thing, whereof any faine or Whit is betweene them hanging in any Court. See the new Booke of Entries, verba Fines. This fine is of so high a nature, that Bradstone lib. 3. cap. 7. anno 3. hath these words of it : *Item immediatè pertinet ad Regem querela finis factæ in curia Domini Regis, & non observata.* Et est ratio, quia nemo potest finem interpretari nisi ipse Rex, in cuius curia fines sunt. See also, anno 27. Ed. prim. stat. prim. cap. 1. The Civilians would call this solemn contract, *transactiōnē immobili*, because it hath all the properties of a transaction, if it bee considered in his originall use. v. *Resemb. pr. rat. titula de transact.* For it appeareth by the Writers of the Common Lawe above named, that it is nothing but a composition or concord acknowledged and recorded before a competent Judge, touching some hereditament or thing immovable, that earst was incontroversie betweene those, that be parties to the same concord : and that for the better credit of the transaction, being by imputacion made in the presence of the King, because it is levied in his Court : and therefore doth jo-

bind woenen covert being parties, and others whom ordinarily the Lawe disableth to transact, onely for this reason, that all presumption of deceite or evill meaning is excluded, where the King is privie to the act. But discourse of wit and reason, hath in time wrought other uses of this concord, which in the beginning was but one : as namely, to secure the title that any man hath in his possession against all men : to cut off Intailes, and with more certaintie to passe the Interest or the Title of any Land or Tement, though not controverted, to whom wee thinke good, either for yeares or in Fee. In so much that the passing of a Fine, in most cases, now is it but *mera fictio juris*, al-luding to the use for the which it was invented, and supposing a dought or controversie, where in truth none is : and so not onely to worke a present prescription against the parties to the concord, or fine, and their heires, but within five yeares against all others, not expressly excepted (if it belevied upon good consideration and without covine) as women covert, persons under 21. yeares, or prisoners, or such as be out of the Realme at the time when it was acknowledged. Touching this matter, see the statutes, anno 14. Rich. 3. cap. 7. anno

anno 4. H. 7. cap. 24. anno 32.
 H. 8. cap. 36. & anno 31. Eliz.
 cap. 2. This fine hath in it five
 essentiall parts: the originall
 writ taken out against the Co-
 nizour: the Kings License gi-
 ving the parties libertie to ac-
 cord, for the which he hath a
 fine called the Kings Silver,
 being accounted a part of the
 Crownes revenue. Thirdly, the
 concord it selfe, which thus be-
 ginneth: *Et est concordia talis, &c.*
 Fourthly, the note of the fine,
 which is an abstract of the origi-
 nall concord, and beginneth in
 this manner: *Se. Inter R. queren-
 tem, & S. & E. uxorem ejus, de-
 ficiantes, &c.* Fifthly, the foot
 of the fine, which beginneth thus:
*Hec est finalis concordia facta in
 Curia domini Regis, apud Westm, a
 die Pascha in quindecim dies, anno
 &c.* So as the foot of the fine
 includerh all, containing the day,
 yeare, and place, and before
 what Justite the concord was
 made. *Coke vol. 6. casu Tye, fol. 38,*
 & 39. This fine is either single
 or double: A single fine, is that
 by which nothing is granted or
 rendered backe againe by the
 Cognizees to the Cognizours,
 or any of them. A double fine
 containeth a grant and render
 backe againe, either of some
 rent, common, or other thing,
 out of the land, or of the land it
 selfe, to all, or some of the Cog-

nizours, for some estate, limiting
 thereby many times Remainders
 to strangers, which be not named
 in the writ of covenant. *West.*
ubi supra, Sect. 21. Againe, a fine
 is of the effect, divided into a
 fine executed, and a fine executory.
 A fine executed is such a
 fine, as of his owne force giveith
 a present possession (at the least
 in law) unto the Cogn'ze, so
 that hee needeth no writ of (*Ha-
 bere facias seismam*) for the ex-
 ecution of the same, but may enter;
 of which sort is a fine (*sur
 cognizance de droit come ceo que il
 ad te son done*) that is upon ac-
 knowledgement, that the thing
 mentioned in the concord be *jus
 ipsius cognizati, et illa que idem ha-
 bet de dono Cognitoris.* *West. Sect.*
51. K. and the reason of this seem-
 eth to be, because this fine,
 passeth by way of release of that
 thing, which the cognize hath
 already (at the least by supposi-
 tion) by vertue of a former gift
 of the Cognizour, *Cokes Reports,*
 lib. 3. the case of fines, fol. 89. b.
 which is, in very deed, the surest
 fine of all. *Fines executorie* be
 such, as of their owne force doe
 not execute the possession in the
 Cognizees, as *fines sur cognizan-
 ce de droit tantum*, *fines sur done*,
 grant, release, confirmation, or
 render. For if such fines be not le-
 vied, or such render made unto
 them, that be in possession at the

time of the fines levied, the cognizees must needs sue writs of (*Habere facias scismam*) according to their severall cases, for the obtaining of their possessions, except at the levying of such executory fines, the parties, unto whom the estate is by them limited, bee in possession of the lands passed thereby: for in this case such fines doe inure by way of extinguishment of right, nor altering the estate of possession of the Cognizee, but per chance bettering it, *West. ubi supra, sect. 20.*

Touching the forme of these Fines, it is to be considered upon what writ or action the conuord is to be made, and that is, most commonly, upon a writ of Covenant; and then first there must passe a payre of Indentures betweene the Cognizour and Cognizee, whereby the Cognizour covenanteth with the Cognizee, to passe a Fine unto him, of such or such things by a day set down. And these Indentures, as they are first in this proceeding, so are they sayd to leade the Fine; upon this Covenant the writ of Covenant is brought by the Cognizee against the Cognizour, who thereupon yeeldeth to passe the Fine before the Judge, and so the acknowledgement being recorded, the Cognizour and his heires are presently concluded,

and all strangers not excepted, after five yeres once passed. If the writ wherupon the Fine is grounded, be not a writ of covenant, but of *Warrantia charta*, or a writ of right, or a writ of mesn, or a writ of Custome and Services (for of all these Fines may also be founded. (*West. ubi supra, sect. 23.*) then this forme is observed: the writ is served upon the party that is to acknowledge the Fine, and then he appearing doth accordingly: See *Dier.*, fol. 179. m. 46.

This word (*Fine*) sometime signifieth a summe of money, payd for an In-come to lands or tenements let by Lease: sometime an amends, pecuniarie punishment, or recompense upon an offence committed against the King and his Lawes, or a Lord of a manor. In which case, a man is said, *facere finem de transgressione cum Rege, &c. Regist. Jud. fol. 25. a.* and of the diversitie of these Fines, with other matter worth the learning, see *Cromptons Justice of peace*, fol. 141. b. 143. 144. and *Lansberds Eirenarchia*, libr. 4. cap. 16. pa. 555. But in all these diversities of uses, it hath but one signification; and that is a finall conclusion or end of differences betweene parties. And in this last sense, wherein it is used for the ending and remission of an offence, *Braclton hath*

hath it li. 2. ca. 15. nu. 8. speaking of a commen fine that the Countie payeth to the King, for false judgements, or other trespasses, whiche is to be assessed by the Justices in Eyre before their departure, by the oath of Knights and other good men, upon such as ought to pay it: with whom agreeeth the Statute, anno 3. Ed. pri. ca. 18. There is also a common fine in Leets. See *Kitchin*, fo. 13. a. v. *Common fine*. See *Fleta* li. 1. ca. 48.

Fines pro licentia concordandi, anno 21. H. 8. ca. 1. See *Fine*.

Fine force, seemeth to come of the French adjective (*fin*) and the substantive (*force*. i. *vis.*) The adjective (*fin*) signifieth sometime as much as craftie, wily, or subtil; sometime as much, as artificiall, curious, singular, exact, or perfect, as (*Rien contrefaist fin. i. nihil simulatum aut ad imitationem alterius expressum, potest esse exactum, vel ita absolutum, quin reprobationem vel offenditionem incurrat, as is set downe in that worke, truly regal, intituled Beau-
tior dōtor. pa. 115.* so that this (*fine force*) with us, seemeth to signifie an absolute necessity or constraint, not avoidable, and in this sense it is used, *Old nat. br.* fol. 78. and in the statute anno 35. H. 8. cap. 32. in *Perkins Dover*, fol. 321. and *Floridan*, fol. 94. *Coke*, vol. 6. fol. 111. a.

*Fine adnullando levatio de teneramento quod fuit de antiquo domini-
co*, is a writ to Justices, for the disanulling of a fine levied of lands holding in ancient Demesne, to the prejudice of the Lord, *Regist. orig. fol. 15. b.*

Fine capiendo pro terris, &c. is a writ lying for one, that upon conviction by a Jury, having his lands and goods taken into the Kings hand, and his body committed to prison, obtaineth favour for a summe of money, &c. to be remitted his imprisonment, and his lands and goods to be re-delivered unto him, *Regist. orig. fol. 142. a.*

*Fine levando de tenementis ten-
tis de Rege in capite, &c.* is a writ directed to the Justices of the common pleas, whereby to license them to admit of a fine for the sale land, holding in capite, *Reg. orig. fol. 167. a.*

*Fine non capiendo pro pulchre placi-
tando*, is a writ to inhibit officers of Courts, to take fines for faire pleading, *Reg. orig. fol. 179.* See *Beau pleder*.

Fine pro redissensia capienda, &c. is a writ, that lieth for the release of one laid in prison for a re-disseisin; upon a reasonable fine, *Reg. orig. fol. 222.*

Finarie. See *Blomarie*.

Finours of gold and silver, be those that purifie, and part those Metals from other courser, by fire

fire and water, anno 4. H. 7. ca. 2. They be also called Parters in the same place, sometime Departers.

Firebote, for the composition looke *Haybote*. It signifieth allowance or *Eftovers* of woods, to maintaine competent fire for the use of the tenent.

First fruits (primitie) are the profits of every Spirituall living for one yeare, given in ancient time to the Pope throughout all Christendome: but by the statute anno 26. H. 8. cap. 3. translated to the Prince, for the ordering wherof, there was a Court erected, an. 32. H. 8. cap. 45. but this Court was dissolved anno pri. Mar. sess. 2. cap. 10. and sithence that time, though those profits be reduced againe to the Crowne, by the statute anno 1. Eliz. ca. 4. yet was the Court never restored, bur all matters therein wont to be handled, were transferred to the Exchequer. See *Annats*.

Fishgarthe, anno 23. H. 8. ca. 18.

Fitche. See *Furre*.

Fitzherberd, was a famous Lawyer in the dayes of King Henry the eight, and was chiefe Justice of the *Common pleas*, hee wrote two worthy Bookes, one an Abridgement of the common Lawes, another intituled *De Natura brevium*.

Fledwit, commeth of the Saxon word (*Fled*) that is, a fugi-

tive, and wit, which some make but a termination, signifying nothing of it selfe: howbeit others say, it signifieth a reprehension, censure or correction: It signifieth in our auncient Law, a discharge or freedome from amercedments, when one having beeene an Out-lawed fugitive, commeth to the peace of our Lord the King, of his owne accord. *Rastal. Exposition of words*: or being licenced: *New termes of Law*. See *Bloodwit*, and *Cbldwrit*: See *Fletwrit*.

Fleet (*Fleta*) a famous prison in *London*, so called (as it seemeth) of the River, upon the side whereof it standeth, *Camden Britannia*. pag. 317. Unto this none are usually committed, but for contempt to the King and his Lawes, or upon absolute commandement of the King, or some of his Courts, or lastly upon debt, when men are unable or unwilling to satisfie their Creditours.

Flemenfrit, or rather (*Flebenfrit*) commeth of the Saxon word (*Flean*) which is a contract of (*Flegen*) that is, to fly away. It signifieth with our Lawyers, a libertie or Charter, whereby to challenge the Cattell or amercedments of your man a Fugitive: *Rastal, Exposition of words*. See *Bloodwit*. *Fletawriteth* this word two other wayes, as *Flemenfrie*,

vie or *Flemesfreiſtbe*, and interpreth it, *babere catalla fugitivorum*: *li. I. ca. 47.*

Fleta is a feigned name of a learned lawyer, that writing a booke of the common lawes of England, and other antiquities in the fleet, termed it thereof *Fleta*. *Hee* see-meth to have lived in Edward the seconds time, and Edward the thirde, *idem lib. I. cap. 20*, §. qui coperint, *li. 2; ca. 66*, §. item quod nullus.

Fletwrit, alias *Fredwrit*, *Skene*, *de verborum significacione*, *verb. Mellatum*, saith, that *Fletwrit* is a liberty to courts, and to take up the amercements pro melleto it, *hee* giueth the reason, because *Fleſt* is called *Flitting*, in French *Melle*, which sometime is conjoined with hand-strokes. And in some bookes, *Placitum de melleto* is called, the moote or plee of beating or striking.

Flight, see *Finer*.

Florences, *an. I R. 3, ca. 8*, a kinde of cloath so called.

Flosion, alias *Flotzam*, is a word proper to the seas, signifying any goods that by shipwracke bee lost, and lye floating or swimming upon the top of the water, which with *Jets* and *lagon* and *shares*, be given to the Lord Admirall, by his letters patents. *Jeson* is a thing cast out of the ship, being in danger of wrecke, and beaten to the shore by the waters, or cast on the

shore by the mariners. *Coke vo. 6, fo. 106 a.* *Lagon*, alias *Lagam*, vel *Ligan*, is that whiell lieth in the bottome of the sea. *Coke ibid.* Shares are goods due to more by proportion.

Foder (*fodrum*) signifieth in our English tongue, a course kinde of meat for horses and other Cattell. But among the Feudists it is used for a prerogative that the prince hath, to bee provided of corn and other meat for his horses by his subjects, towards his Warres or other expeditions. *Arnoldus Clapmarius, de arcanis Imperii, lib. I, cap. 11.* And reade *Hotoman, de verbis fundationis, lib. I. cap. f.*

Folgheres, or rather *Folgers*, be followers, if we interpret the word according to the true signification. *Braſton* sayth it signifieth, *Eos qui alii deservunt*, *Lib. tertio, tract. 2, cap. 10.*

Folkmoote, is a Saxon word, compounded of *Folk*, i. *populus*, and *Gemet*: an, i. *convenire*. It signifieth (as M. *Lambert* saith in his expositio[n] of Saxon words, *verbo Convenire*) two kind of courts, one now called the County court, the other called the Sheriffes Turne. This word is still in use among the Londoners, and signifieth, *celebram ex omni circitate conveniunt*. *Stow* in his Survey of London. But M. *Manwood* in his first part of *Forest*

lawes, pag. 111. hath these words: *Folkemote* is the Court holden in London, wherein all the folk and people of the City did complaine on the Major and the Aldermen, for mis-government within the City.

Forbare, is for ever to dep: iue.
anno 9. Ricb. 2. ca. 2.

Force (*forceia*) is a french word, signifying (*viim, nervositatem, fortitudinem, virtus-n*) in our common law, it is most usually applied to the evill part, and signifieth unlawfull violence. *West* thus defineth it: *Force* is an offence, by which violence is used to things or persons *parte 2. symbol. titulo. Indictments Sect. 65.* where also he divideth it thus: *Force* is either simple or compound. Simple is that which is so committed, that it hath no other crime adjoynted unto it; as if one by force doe onely enter into another mans possession, without doing any other unlawfull act there. Mixt force, is that violence, which is committed with such a fact, as of it selfe onely, is criminall; as if any by force enter into another mans possession, and kill a man, or ravish a woman there, &c. hee farther divideth it into true force, and force after a sort, and so proceedeth to divers other branches worth the reading, as forcible entry, forcible detaining, unlaw-

full assembly, *Rowtes, Riots, Rebellions, &c.*

Forcible detaining or withholding of possession, is a violent act of resistance by strong hand of men weaponed with harnes, or other action of feare, in the same place, or elsewhere, by which the Lawfull entry of Justices or others, is barred or hindred, *West. parte 2. symb. titulo. Indictments. Sect. 65.* *M.* of this see *Cromptons Justice of peace. fol. 58. b. &c. usq; ad 63.*

Forcible entrie (*Ingressus manus forti factus*) is a violent actuall entry into an house or land, &c. or taking a distresse of any person weaponed, whether he offer violence or feare of hurt to any there, or furiously drive any out of the possession thereof: *West. par. 2. symb. titulo. Indictments. sect. 65.* *L.* of this see *Cromptons Justice of peace, fo. 58. b. 59. &c. usq; 63.* It is also used for a writ grounded upon the statute *anno 8. H.6. ca. 9.* whereof reade *Fitzb. nat. br. at large, fo. 248.* See the new booke of Entries, *verbo Forcible Entrie.* See *Lamb. definition in certaine cases. Eiren. li. 2. ca. 4. pag. 145.*

Forein (*forinsecus*) commeth of the French (*forain. i. exterius, externus*) it is used adjectively in our common Law, and joyned with divers substantives in sensis not unworthy the exposition, as *Forein matter*, that is matter triable in another County, *pl. co. fol.*

fo. 154. or matter done in another county. Kitchin fo. 126. Forrein-plea, (*forinsecum placitum*) is a re-
fusal of the Judge as incompetent,
because the matter in hand was
not within his precincts : Kit-
chen fo. 75. & an. 4 H.8, cap. 2.
& anno 22 ejusdem cap. 2, & 14.
Forein answer, that is, such an an-
swer as is not triable in the Coun-
ty where it is made, an. 15 Hen. 6,
ca. 5. Forein service (*forinsecum
servitium*) that is, such service,
whereby a meane Lord holdeth
over of another, without the
compaſſe of his owne fee. Brook
titulo Tenures, fo. 251. num. 12 &
28. & Kitchin fol. 209. or else
that which a Tenent perfor-
meth either to his owne Lord,
or to the Lord paramount out
of the fee. For of these ser-
vices Braston speaketh thus : lib.
2, cap. 16, m. 7. *Item sunt quedam
servitia, que dicuntur forinseca,
quamvis sint in charta de feoffa-
mento expressa & nominata: & que
ideo dici possunt forinseca, quia per-
tinent ad Dominum Regem, & non
ad Dominum capitalem, nisi cum
in propria persona profectus fuerit
in servitio: vel nisi cum pro servitio
suo satisficerit domino Regi quo-
cunque modo, & fuit in certis tem-
poribus, cum casu & necessitate even-
erit, & varia habent nomina &
diversa: Quandoq; enim nominan-
tur forinseca, large sumpto vocabu-
lo, quoad servitium Domini Regis,*

*quandoque scutagium, quandoque
servitium Domini Regis, & ideo for-
insecum dici potest, quia sit et capi-
tur fori, sive extra servitium quod
fit Domino capitali. v. Brooke, Te-
nures 28,95. Forein service see-
meth to be Knights service, or E-
scuage uncertaine. Perkins Reser-
vations 650. Forein attachment,
attachiamentum forinsecum, is an
attachment of foreiners goods
found within a Liberty or city
for the satisfaction of some ci-
tilent to whom the said foreiner ow-
eth mony.*

Forein apposer, (*forinsecarum
oppositor*) is an officer in the Ex-
chequer, to whome all Sherifes
and Baylifes doe repaire, by him
to bee opposed of their greene
waxe, and from thence draw-
eth downe a charge upon the
Sherife and Bailife to the Clerk of
the pipe.

Forest (*foresta*) is a French word
signifying a great or vast wood.
*Lieu forestier et sauvage : locus syl-
vestris et saltus.* The writers
upon the common law defme it
thus : *Foresta est locus ubi feræ in-
habitant vel includuntur.* Gloss. in
ca. cum dilecti. extra. de donatio,
et Felinus in cap. Rodulphus,
versu, *quid autem foresta. extra
de rescriptis*, speaketh to the same
effect. Some other writers doe
say it is called forest, quasi fer-
rum statio, vel tutam mansio ferarum.
But as it is taken with us, M.

Manwood, in his second part of Forest Lawes, ca. 1, m. 1. thus defineth it : A forrest is a certayne territorie of woody grounds and fruitfull pastures, priviledged for wilde beasts, and foules of forrest, chase, and warren, to rest and abide in, in the safe protection of the King, for his princely delight and pleasure : which territory of ground so priviledged, is meered and bounded with unremoovable markes, meeres, and boundaries, either knowne by matter of record, or els prescription, and also replenished with wilde beasts of Venery, or chase, and with great coverts of vert, for the succour of the sayd wilde beasts, to have their aboad in : for the preservation and continuance of which said place, together with the vert and venison, there are certaine particular laws, priviledges, and officers belonging to the same, meet for that purpose, that are onely proper unto a Forrest, and not to any other place. The same definition he hath, parte 1, pag. 139, which though it have many superfluities, yet it wel expresseth the nature of the thing, especially the explication adjoyned, which there is set downe by the said Author in both places, in his first part, pa. 16, where hee fetcheth a forest from such overgrowne antiquity, alledging for it the 2. booke of Kin.ca. 2, ver. 24.

Orca. 19, ver. 23, and the 104 Psalm, vers. 20, the 131, vers. 6. hee taketh license to sport himself; for though our English translation have the word Forest, to expresse the vastnesse of the Desart; yet if we looke to the original idiome, wee shall find no more reason to call those places forests, than either chases or parks.

The maner of making forests, as the same Author well setteth downe, parte 1, pag. 142, is this : The King sendeth out his Commission under the broad Seale of England, directed to certaine discreet persons, for the view, perambulation, meering and bounding of the place that hee mindeth to afforest. Which returned into the Chancery, proclamation is made thorowout all the shire, where the ground lieth, that none shall hunt or chase any manner of wilde beasts within that precinct, without the Kings speciall license, after which hee appointeth ordinances, lawes and officers, fit for the preservation of the vert and venison : and so becommeth this a forest by matter of record. The properties of a forest are these in speciaall : first a forest, as it is truely and strictly taken, cannot be in the hands of any but the King : the reason is given by M. *Manwood*, because none hath power to grant commission to a justice in Eire for the forest, but the King, par. 1, pag.

pag. 87. The second property bee
the Courts, as the Justice sent evey-
ry three yeares, the Swainemoor
thrice every yeaer, *Idem et pag.*
90. et parte 2, ca. 1, m. 4 et 5. and
the attachment once every forty
dayes, *Idem et pag. 92.* The third
property may be the officers be-
longing unto it, for the preserva-
tion of the vert and venison, as first
the Justices of the forest, the war-
den or Keeper, the verders, the
foresters, Agitours, Regarders,
Bayliffes, Bedels, and such like,
which you may see in their places.
See *Manwood*, *parte 2, ca. 1, m. 4 et*
5. But the chiefe property of a for-
rest, both by Master *Manwood*,
parte 1, pa. 144; and Master *Crom-
pton*, *pa. 146*, is the Swainemote ;
which, as they both agree, is no
lesse incident unto it, than the
court of Pycpowders to a Faire.
Other Courts and Offices are
not so requisite, in those forests
that are in the hands of subjects,
because they be not truly forests.
But if this faile, then is there no-
thing of a Forrest remaining, but it
is turned into the nature of a
Chace. See *Chace*. I reade of
thus many forrests in England :
The forest of Windsor in Berke-
shire, *Cambl. Bris. p. 213.* of Pick-
ering, *Crompton 190.* Of Shir-
wood, *idem, fol 202.* of Englewood
in Cumberland, *an. 4 Hen. 7, ca. 6,*
and *Crompton fol. 42.* of Lancaster,
idem, fol. 196. of Wolmore, *Stones*

Annals, pa. 462. Of Gillingham,
idem, pag. 113. Of Knaresbo-
row, *anno 21 Hen. 8, ca. 17.* of Wal-
tham, *Cambl. pa. 328.* of Breden,
idem pag. 176. Of Whiteharte,
idem p. 150. Of Wiersdale, *idem*
pa. 589. and Lownesdall, *ibidem.*
of Deane, *idem pa. 266, et ann. 8,*
Hen. 6. cap. 27. and *ann. 19 Hen. 7,*
ca. 8. Of Saint Leonards in South-
sex, *Manwood parte 1, pa. 144.* Of
Waybridge and Sapler, *Idem con-
dem pa. 63.* Of Whitvey, *pa. 81.*
Of Fekenthal, *Cambl. pa. 441.*
Of Rockingham, *idem pag. 396.*
Forest de la mer, *idem, pag. 467.*
Of Huckstow, *idem pag. 456.* Of
Hay, *Manwood parte 1, pa. 144.*
Of Cantfelly, *eadem pag.* Of Ash-
downe in the county of Sussex,
an. 37 H. 8, ca. 16. Forests of Whi-
tilwood and Swafe in the county
of Northampton, *an. 33 H. 8, cap.*
38. Of Fronselwood in the coun-
ty of Somerset, *Coke li. 2, Crom-
wells case, fo. 71 b.* I heare also
of the forest of Exmore in De-
vonshire. There may be more;
which he that listeth may looke
for.

Forester (forestarium) is a sworne
officer of the forest, appointed by
the Kings letters patens to walke
the forest both early and late, wat-
ching both the vert & the venison,
attaching and presenting all tre-
passers against them, within their
own bayliwiche or walke : whose
oath you may see in *Crompton*,
fol.

fo. 201. And though these letters patents bee ordinarily granted, but *quam diu bene se gesserint*, yet some have this grant to them and their heires, and thereby are called Foresters or fosters in fee : *Idem fol. 157 & 159. and Manwood parte 1, pag. 220.* whom in Latine *Crompton calleth Forestarium seu di, fo. 175.*

Fore-judger, (foris iudicatio) signifieth in the Common Law, a Judgement, whereby a man is deprived, or put by the thing in question. It seemeth to bee compounded of *fors*, i. *præter*, and *juger*, i. *judicare*. *Bracton, lib. 4, tract. 3, cap. 5,* hath these words : *Et non permittas quod A. capitalis dominus feudi illius habeat custodiam heredis, &c. quia in Curia nostra foris iudicatur de custodia, &c.* So doth *Kitchin* use it, *fol. 209.* and *Old nat. brev. fo. 44,* and *81.* and the statute, *anno 5 Edw. 3, ca. 9.* and *anno 21 R. 2, ca. 12.* *Foriudicatus* with Authors of other nations signifieth as much as Banished, or as *Deportatus* in the ancient Romane law, as appeareth by *Vincentius de Franchis, descif. 102. Mathew de Afflictio, lib. 3, feud. Rub. 31. pa. 625.*

Foregoers bee Purveyors going before the King or Queen, beeing in progresse, to provide for them. *anno 36 Ed. 3, ca. 5.*

Forfeiture (forisfactura) commeth of the French word *Forfaict*, i. *scelus* : but signifieth in our language, rather the effect of transgressing a penall Law, than the transgression it selfe, as forfeiture of Escheats, *anno 25 Edw. 3, ca. 2, statut. de Proditionibus.* Goods confiscate, and goods forfeited differ, *Statut. pl. Co. f. 186.* where those seeme to be forfeited that have a knowne owner, having committed any thing wherby he hath lost his goods ; and those confiscate, that are disavowed by an offendour as not his owne, nor claimed by any other. I thinke rather, that forfeiture is more generall, and confiscation particular, to such as forfeit onely to the Princes Exchequer. Reade the whole chapter, *li. 3, ca. 24.* Full forfeiture, *plena forisfactura*, otherwise called *plena vita*, is forfeiture of life and member, and all else that a man hath. *Manwood, parte 1, pag. 341.* The Cannon Lawyers use also this word, *Forisfacta sunt pecuniarie poene delinquentium.* *Glos. in cap. Presbyteri extra. de poenis.*

Forfeiture of mariage (forisfactura maritagi) is a writ lying against him, who holding by knights service, and beeing under age and unmarried, refuseth her, whom the Lord offereth him, without his disparagement, and marieth another. *Fitz. nat. br. fol. 141.*

141. H. I. K. L. Register origin. fol.
163. b.

*Forseng, quietantiam prioris prisas
designat: in his enim delinquunt
Burgenes Londonenses, cum prisas
suis ante prisas regis faciunt. Fleta.
li. 1, ca. 47.*

*Forgery, see here next following,
Forger of false deeds.*

*Forger of false deeds, commeth of
the French Forger, i. accidere, fa-
bricare, constare, to beate on an
anvile, to fashion, to bring in-
to shape; and signifieth in our
common law, either him that
fraudulently maketh & publisheth
false writings, to the prejudice
of any mans right, or else the
writ that lieth against him that
committeth this offence. Fitz.
Nat. brev. fo. 96, b, c, calleth it a
writ of Deceit. See Tarmes
of Law, verbo Forger. and Wests
Symbol. parte 2, Indictments, Se-
ctio 66. See the new booke of
Entries, verbo Forger. de falso.
This is a branch of that which
the Civilians call Crimen falsi,
Nam falsarius est, qui decipiendi
causa scripta publica falsificat. Spec-
ulator. de crimine falso. Falsi cri-
men propriè dicitur, quod utilitatis
private causa falso est. Conna-
mus, li. 5, ca. 7, nr. 4. Ad esse falsi-
taris tria requiruntur: mutatio veri-
tatis dolus, & quod alteri sit nocivum.
Quorum si alterum defit falsi-
ta non est punibilius. Hostiensis, et A-
zo in suis summis.*

Forister. See Forester.

*Formdon (Breve formatum do-
nationis) is a writ that lyeth for
him, that hath right to any lands
or tenements by vertue of any
entaille, growing from the sta-
tute of Westm. 2. cap. 1. It lyeth
in three sorts; and accordingly
is called forma donationis, or
formdon in the descender: form-
don in the reverter, or formdon in
the remainder. Formdon in the
descender lyeth for the recovery
of lands, &c. given to the one and
the heires of his body, or to a
man and his wife, and the
heires of their two bodies, or to
a man and his wife being Cofin
to the Donour, in francke mar-
riage, and afterward alienated by
the Donee. For after his decease
his heire shall have this writ ag-
ainst the tenant or alienee. Fitz.
Nat. br. fol. 211. He maketh three
sorts of this formdon in the des-
cender: The first is, in the man-
ner now expressed: The second
is, for the heire of a Coparcener,
that alienateth and dieth, fo. 214.
The third is called by him (In
simil tenuit) fol. 216. which lyeth
for a Coparcener or heire in Ga-
velkind, before partition against
him, to whom the other Copar-
cener or heire hath alienated and
is dead. Formdon in the Rever-
ter, lyeth for the Donour or his
heires, where land entailed to
certayne and their issue, with
condi-*

condition for want of such issue to revert to the Donour and his heires , against him to whom the Donee alienateth, after the issue exinct, to which it was entailed, *Fitzb. nat. brev.* fo. 219. Formedon in the remainder lieth where a man giveth lands in taile, the remainder to another in tayle , and afterward the former tenant in taile dieth without issue of his body, and a stranger abateth, then bee in the remainder shall have this writ. *Fitzb. nat. br. fol.* 217. See the *Register originall*, fo. 238, 242, 243. Of this, see the new booke of Entries , verb. *Formdon*.

Forsechoke, seems to signifie originally as much as forsaken, in our modern language, or *derelictum*, with the Romans. It is especially used in one of our statutes, for land or tenements seised by the Lord, for want of services due from the tenant : and so quietly held and possessed beyond the yeare and day. As if wee should say, that the tenant which seeing his land or tenements taken into the Lords hand, and possessed so long, taketh not the course appointed by law to recover them, doth in due presumption of Law disavow or forsake whatsoever right bee hath unto them. See the statute, anno 10 Edw. I., cap. unico.

Forstall, is to be quit of amerciaments and cattells arrested within your land , and the amerciaments thereof comming. New termes of law.

Forstalling (*forstallatio*) is partly French, for (*estaller*) is in that tongue, as much as *merces exponere, expeditre, explicare*) or to shew wares in a Market or Faire. It signifieth in our common law, the buying or bargaining for any victuals or wares coming to be sold toward any Faire or Market, or from beyond the Seas toward any City, Port, Haven, Creeke, or road of this Realme, and before the same be there, anno 51. H. 3. stat. 6. *West. parte 2. Symbol. titulo indictments. scit. 64.* *Forstaller*, in *Cromptons Jurisdiction*, fol. 153. is used for stopping of a Deere broken out of the Forest , from returning home againe, or laying betweene him and the Forest, in the way that he is to returne : See *Regratours* and *Engroffers*. See *Cromptons Justice of Peace*, fol. 69.a. The author of the few termes of law defineth it thus. *Forstalling* (*Forstallamentum*) is the buying of Corne, Cattell, or other Merchandise by the way as it commeth toward the Faire or Market to be sold, to the intent to sell the same againe at a more high and deere price. *Fleta* saith thus of it, significat obtrusionem via vel impedimentum

mentum transitus & fugae averiorum. lib. i. cap. 47.

Fortescue, was a learned Lawyer, and Lord Chancellor in *Henry the 6. daies*; who writ a booke in the commendation of our common lawes.

Fortlet (*forte letum*) commeth neere the French (*fortelet*. i. *valenticulus*, *forticulus*) and signifieth in our common law, a place of some strength, *Old nat. br. fol. 45.* This in other Countries is written (*fortalitium*) and signifieth (*castrum.*) *Scrudens select.* & *practicabil. quest. sect. 12. num. 7,* & 8.

Forber, is a weight of twenty hundred, which is a waine or cart load. *Speight in his Annot. upon Charcer.*

Fourche (*Afforcire*) seemeth to come of the French (*Fourchir*. i. *ritidare lingua*) and signifieth in our common law, a putting off, prolonging, or delay of an action. And it appeareth no unpleasant Metaphor : for as by stammering, wee draw out our speech, not delivering that wee have to say in ordinary time, so by fourching wee prolong a suit that might be ended in a shorter space. To fourch by esoine, *Westm. i. cap. 24. anno 3. Edw. prim.* where you have words to this effect : *Coparceners*, *Joint-tenants*, and *Tenents in common*, may not fourch by esoine, to ef-

soine severally, but have onely one esoine, as one sole tenent may have. And *anno 6. Edw. i. ca. 10.* You have it used in like sort.

Foutgeld, is a word compounded of these two German words (*fous. i. pes.*) and (*gyldan.i. solvere*) and it signifieth an amercement for not cutting out the balles of great dogs feet in the Forest. See *Expediate*. And to be quit of *footgeld* is a priviledge to keepe dogs within the Forest, unlawed, without punishment or controllment, *Cromptons Jurisd. fol. 197. Manwood, parte pri. of his Forest lawes, pag. 86.*

Fowles of warren. See *Warren.*

Founder, is hee that melteth metall, and maketh any thing ofit, by casting it into a mould, &c. *anno. 17. Rich. 2. cap. 1.* derived of the verbe (*fundere*) to powre.

Franchise (*libertas, franchises*) commeth of the French (*franchise*) so signifying : it is taken with us for a priviledge, or an exemption from ordinary jurisdiction, and sometime an immunity from tribute. It is either personall or reall, *Cromp. jurisd. fol. 141.* that is belonging to a person immediatly, or else by meanes of this or that place, or Court of immunitie, whereof hee is either chief, or a member.

In what particulars things franchises commonly consist, see *Britton, cap. 19. Franchise royall anno 15.R.2. ca. 4. et anno 2. H. 5. cap. 7. in fine*, seemeth to be that, where the Kings writs runne not: as *Chester* and *Durham*, they are called Seignories royall, anno 28. *H.6.cap.4.* The author of the new Termes of law, saith, that *franches royall* is, where the King granteth to one and his heires, that they shall be quit of tolle or such like: See *franchise* in the new booke of Entries. See *Braclon, lib.2.cap.5.* See *Sac.*

Frank almoine (libera Eleemosyna) in french (*frank Ausmone*) signifieth in our common law, a tenure or title of lands. *Britton cap.66. num. 5.* saith thus of it: *Franke almoyne* is lands or tene- ments bestowed upon God, that is, given to such people, as be- stow themselves in the service of God, for pure and perpetuall almes: whence the Feoffours or givers cannot demand any ter- restriall service, so long as the lands, &c. remaine in the hands of the Feoffees. With this agreeth the grand Cusumary of *Norman- die, cap. 32.* Of this you may reade *Braclon at large, lib.2. cap. 5. & 10.* See *Fitzb. nat. br. fol. 211.* See the new booke of Entries, verbo, *Franke almoine*. But *Britton* maketh another kind of this land, &c. which is given in

almes, but not free almes: because the tenents in this are tyed in cer- taine services to the Feoffour, *Britton nbi supra.*

Frank bank (francus bancus) in true french (*franc bank*) signifieth, word for word, a free bench or seat: and among our Law writers, it seemeth to be used for Copyhold lands, that the wife being espoused a virgin, hath af- ter the decease of her husband for her dower, *Kitchin, fol. 102. Braclon, lib.4. tract.6. cap.13. n.2.* hath these words: *Consuetudo est in partibus illis, quod uxores ma- ritorum defunctorum habeant fran- cum bancum suum de terris sock- munnorum, et tenent nomine doris,* *Fitzb.* calleth it a custome, whereby in certaine Cities the wife shall have her husbands whole lands, &c. for her dower, *Nat. br. fol. 150. P.* See *Plowden case Newis. fol. 411.*

Frank chase (Libera chasse) is a liberty of free chase, whereby all men having ground within that compass, are prohibited to cut downe wood, or discover, &c. without the view of the Fore- ster, though it be his owne De- mesne, *Cromptons Jurisdictions, fol. 187.*

Frank fee (feudum francum, seu liberum) is by *Broke tit. De- mesn. num. 32.* thus expressed: That which is in the hand of the King or Lord of any Maner, being

being auncient demeasne of the Crowne (*viz.* the Demeasnes) is called *franke fee*, and that which is in the hands of the tenents, is auncient demeasne onely : see the Register origin. fol. 12. 4. Whereby it seemeth, that that is franke fee, which a man holdeth at the Common Law to himselfe and his heires, and not by such service as is required in auncient demesne, according to the custome of the manner. And againe, I find in the same booke, fol. 14. b. a note to this effect, that the lands which were in the hands of King Edward the Saint, at the making of the booke called *Domesday*, is ancient demesne : and that all the rest in the Realme is called frank fee : with the which note *Fitzherb.* agreeth, na. br. fol. 161. E. So that all the land in the Realme, by this reason, is either ancient demesne, or frank fee. The new expounder of the Law termes defineth frank fee, to be a tenure in fee simple, of lands pleadable at the common law, and not in ancient demesne : See *Fachintus*, lib. 7. cap. 39. who defineth *feudum francum esse*, *pro quo nullum servitium prestatur Domino* : with whom agreeth *Zafius de feudis parte 12.* saying, that therefore it is *feudum impro prium*, *quia ab omni servitio liberum*.

Frank ferme (*firma libera*) is

land or tenement, wherein the nature of fee is changed by feoffment, out of knights service, for certaine yearly services, and whence neither homage, wardship, mariage, nor relief may bee demanded, nor any other service not contained in the feoffment. *Britton ca. 66. num 3. sec Fee ferme.*

Frank law (*libera lex*) See *Cramptons Justice of peace*, fol. 156. b. where you shall find what it is, by the contrary. For he that for an offence, as *conspiracie*, &c. leefeth his franke law, is said to fall into these mischiefs : first, that hee may never bee impaneled upon any jury, or assise, or otherwise used in testifying any truth. Next, if he have any thing to doe in the Kings Court, he must not approach thither in person, but must appoint his Attorney. Thirdly, his lands, goods, and chatels must bee seised into the Kings hands : and his lands must bee estreaped, his trees rooted up, and his body committed to prison. For this, the said author citeth the booke of *Affises*, fol. 59. *Conspiracy*. F. 11. 24. Ed. 3, fol. 34. See *Conspiracy*.

Frank marriage (*liberum matrimonium*) is a tenure in tail special, growing from these words in the gift comprised : *Sciant &c. me M. H. de W. dedisse & concessisse, et presenti charta mea confirmasse I. A. filio meo*

meo & Margerie uxori ejus, filie
veræ T. N. in liberum maritagium
eujus messagium, &c. West. parte
I. Symbol. li. sect. 303. The effect
of which words is, that they shall
have the land to them, and the
heires of their bodies, and shall
dœ no fealty to the donour, un-
till the fourth degree. See new
Termes of law. Glanvile li. 7. ca.
18. & Bracton li. 2. ca. 7. num. 4.
where hee divideth maritagium,
in liberum & servitio obligatum. See
Mariage. *Fleta* giveth this rea-
son why the heires doe no ser-
vice untill the fourth discent,
*ne donatores vel eorum heredes per
homagum receptionem, a revercone
repellantur.* And why in the fourth
discent and downeward, they
shall doe service to the donour,
*quia in quarto gradus vehementer
præsumitur, quod terra non est pro
defecta heredum donatariorum re-
versura, libro tertio. ca. 11. in
princ.*

Frankpledge (*Franciplegium*) is
compounded of (*Franc*. i. *liber*)
and (*pleige*. i. *fidejussion*) and signifi-
eth in our common law, a
pledge or surety for free-men.
For the ancient custome of Eng-
land for the preservation of the
publike peace, was that every
free borre man, at fourteene
yeeres of age, after *Bracton* (reli-
gious persons, Clerkes, Knights,
and their eldest sonnes excepted)
should find surety for his truth

toward the King and his sub-
jects, or else be kept in prison,
whereupon a certaine number
of neighbors became customa-
bly bound one for another, to
see each man of their pledge
forth comming at all times, or to
answere the transgression com-
mitted by any broken away. So
that whosoever offended, it
was forthwith inquired in what
pledge he was, and then they of
that pledge, either brought him
forth within 31. daies to his an-
swere, or satisfied for his offence.
This was called *Frank pledge*,
causa qua supra, and the circuit
thereof was called *Decenna*, be-
cause it commonly consisted of
10. housholds: And every
particular person thus mutually
bound for himselfe and his
neighbours, was called *Decen-
nier*, because he was of one *Decen-
na* or another: This custome was
so kept, that the Sherifffes, at
every county court, did from
time to time take the oathes of
young ones, as they grew to the
age of 14. yeares, and see, that
he were combined in one dozen
or another: whereupon this
branch of the Sherifffes autho-
ritie was called *visus Franciplegii*,
view of frankpledge. See the sta-
tute for view of Frankpledge,
made anno 18. Ed. 2. See *Decen-
nier*, *Leete veire* of *Frank pledge*,
and *Freelborgh*. That this disci-
pline

pline is borrowed by us of the *Romane Emperours*, or rather *Lombards*, appeareth most manifesterly in the second booke of *Feuds.* ca. 53. upon which if you read *Hotoman*, with those Authors that he there recordeth, you will thinke your labour well bestowed. Reade more of this. viz. what articles were wont to be inquired of in this Court, in *Hornes mirrour of Justices*, lib. 1. ca. de la venu des francs pleges, and what these articles were in ancient times, see in *Fleta.* lib. 2. ca. 52.

Fredwit. See *Fletwit.*

Free chappell (*libera Capella*) by some opinion, is a Chapell founded within a Parish for the service of God, by the devotion and liberalitie of some good man, over and above the mother Church, unto the which it was free for the Parishioners, to come or not to come, and endowed with maintenance by the founder, and thereupon called free: I have heard others say, and more probably, that those only be free chappells, that are of the Kings foundation, and by him exempted from the Jurisdiction of the Ordinarie: but the King may licence a subject to found such a Chappell, and by his Charter exempt it from the Ordinaries visitation also. That it is called free in respect it is exempted from

the Jurisdiction of the Diocesan, appeareth by the Register originall, fol. 40 &c. 41. These chappells were all given to the King: with chaunteries, anno 1. Edw. 6. ca. 14. Free chappell of *Saint Martin le grand.* anno 3. Edvard 4. capite quarto, & anno 4. Ed. quarti ca. 7.

Free bould (*liberum tenementum*) is that land or tenement, which a man holdeth in fee, fee taile, or at the least, for terme of life, *Braet.* lib. 2. ca. 9. The new expounder of the law termes faith, that freehold is of two sorts. Freehold in deed, and freehold in law: Freehold in deed, is the reall possession of land or tenements in fee, fee tayle, or for life. Freehold in law, is the right that a man hath to such land or tenements before his entry or seisure. I have heard it likewise extended to those offices, which a man holdeth, either in fee, or for terme of life. *Britton* defineth it to this effect. *Frank tenement* is a possession of the soile, or services issuing out of the soile, which a free man holdeth in fee to him and his heires, or at the least, for tearme of his life, though the soile be charged with free services or other, ca. 32. *Freebold* is sometime taken in opposition to villenage. *Braet.* lib. 4. 37. & 38. *M. Lamberd* (in his ex-

plication of Saxon words, verbo Terra ex scripto) saith, that land in the Saxons time was called either *Bockland*, that is holden by book or writing: or *Folcland*, that is holden without writing: The former, hee reporteth, was held with farre better conditions, and by the better sort of tenents, as Noble-men and Gentlemen, being such as we now call free hold: the latter was commonly in the possession of clownes, being that which wee now call at the will of the Lord: I find in the Register judiciali, fol. 68. a. and in divers other places, that hee which holdeth land upon an execution of a Statute Merchant, untill hee bee satisfied the debt, *tenet ut liberum tenementum sibi & assignatis suis*, and fol. 73. b. I read the same of a tenent per elegit; where I think the meaning is not, that such tenents bee free-houlders, but as free-houlders for their time, that is untill they have gathered profits to the value of their debt. *Freeboulders* in the ancient lawes of Scotland, were called *Milites*. *Skene de verb.* signif. verb. *Milites*: The D. and Student saith, that the possession of land, after the law of England, is called *frank tenement*, or *free-bould*. fol. 97. a.

Frenchman (*Francigenia*) was wont to bee used for every out-

landish man. *Braeton li. 3. tract. 2. cap. 15.* See *Engleccrie*.

Frendwite, vel *Infeng*, significat quietantiam prioris prisae ratione convivii, *Fleta. li. 1. ca. 47.*

Frendles man, was wont to be the Saxon word for him, whom wee call an out-law. And the reason thereof I take to be: because hee was upon his exclusion from the Kings peace and protection, denied all help of friends, after certaine dayes. *Nam foris fecit amicos. Braet. li. 3. tract. 2. ca. 12. nu. 1.* whose words are these. *Talem vocant Angli (utlang) & alio nomine antiquitus solet nominari, sc: Frendles man: & sic videtur quod foris fecit amicos: & unde si quis tallem post utlagarianam & expulsionem scienter paverit, receptaverit, vel scienter communicaverit aliquo modo, vel receptaverit, vel occultaverit, eadem pena puniri debet, quia puniretur utlagatus: ita quod ccreat omnibus bonis suis & vita, nisi Rex ei parcat de sua gratia.*

Fresh disseisin (*Frisea disseisina*) commeth of the french (*Fraiz. i. recens*) and *disseisir. i. possessione ejicere*) It seemeth to signifie in our common law, that disseisin that a man may seeke to defeate of himselfe, and by his own power, without the helpe of the King or his Judges, *Britton. ca. 5.* and that is such disseisin, as is not above 15. dayes old. *Braet. lib. 4. cap. 5.* whom you may reade at large

large of this matter, concluding that it is arbitrarie, and so doth Britton, ca. 65. but ca. 43. hee seemeth to say, that in one case it is a yare. Seehim also, ca. 44.

Fresh suit, is that which was levied within a yare past, West. 2. ca. 45. an. 13. Ed. I.

Fresh force (*frisca fortia*) is a force done within forty dayes, as it seemeth by Fitzb. nat. br. fol. 7.

C. For if a man bee disfised of any lands or tenements, within any City or Borough, or deforced from them after the death of his Ancestor, to whom hee is heire: or after the death of his tenent for life or in taile: hee may within forty dayes after his title accrued, have a Bill out of the Chancerie to the Maior, &c. See the rest.

Fresh suit (*recens insecurio*) is such a present and earnest following of an offendour, as never ceaseth from the time of the offence committed or espied, untill hee be apprehended. And the effect of this, in the pursuit of a Felon, is, that the partie pursuing shall have his goods restored him againe: whereas otherwise they are the Kings. Of this see Stawnf. pl. cor. li. 3. ca. 10. & 12. where you shall find handled at large, what suit is to be accounted fresh, and what not. And the same Author in his first booke, cap. 27. saith, that fresh suit may continue for

seven yeares. See Cokes Reports, lib. 3. Rigewaies case. *Fresh suit*, seemeth to be either within the view or without: for M. Mandwod saith, that upon fresh suit within the view, Trespassers in the Forest may be attacted by the officers pursuing them, though without the limits and bounds of the Forest, parte 2. cap. 19. num. 4. fol. 121.

Froborgh: alias *Fridburgh*: alias *Frithborg* (*Frideburgum*) commeth of two Saxon words: (*Freo*. i. liber, ingenuus) and (*borgh* i. *fidejussion*) or of (*Frid*. i. *pax*) & (*Borgha*. i. *sponsor*) This is otherwise called after the French (*Franck pledge*) the one being in use in the Saxons time, the other sithence the Conquest: wherfore for the understanding of this, reade *Franck pledge*. That it is all one thing, it appeareth by M. Lamberd in his explication of Saxon words, *verbo Centuria*: And againe in the lawes of King Edward, set out by him, fol. 132. in these words: *Præterea est quedam summa et maxima securitas, per quam omnes statu firmissimo sustinentur: viz. ut unusquisque stabilitat se sub fidejussionis securitate, quam Angli vocant (Froborghes) soli tamen Eboracenses, dicunt eandem (Tienmannatale) quod sonat laine decem bominum numerum. Hæc securitas hoc modo fiebat, quod de omnibus vilis*

lis totius regni sub decennali fidejussione debebant esse universi : ita quod si unus ex decem foris fecerit , novem ad rectum eum haberent : quod si ausfugeret , daretur lege terminus ei 31. dierum : ut quæsusitus interim & inventus , ad justitiam Regis adduceretur , & de suo illico restauraret damnum quod fecerat . Etsi ad hoc foris faceret , de corpore suo , justitia fieret . Sed si infra prædictum terminum inveniri non posset , &c. as in the booke : Bracton maketh mention of (Fridburgum) lib. 3. tract. 2. cap. 10. in these words : Archiepiscopi , Episcopi , Comites , & Barones & omnes qui habent Soc. , & Sak. Tol. & Team , & hujusmodi libertates , milites suos & proprios servientes , armigeros sc. dapiferos , & pincernas , camerarios , coquos , pipisters , sub suo Fridburgo habere debent . Item & isti suos Armigeros , & alios sibi servientes . Quod si cui foris fecerint , ipsi domini sui habeant eos ad rectum , et si non habuerint , solvant pro eis foris acheram . Et sic observandum erit de omnibus aliis , qui sunt de aliquajus manu pasti . Out of these words , I learne the reason , why great men were not combined in any ordinary Dozeine , and that is , because they were a sufficient assurance for themselves , and for their meniall servants : no less then the ten were one for another in ordinary Dozeins . See Frankpledge : See Skene de verborum significati-

one . verb . Freiborgh . Fleta writeth this word (frithborgh) and useth it for the principall man , or at the least , for a man of every Dozein . Frithborgh (saith hee) est laudabilis homo testimonii liber vel seruus , per quem omnes juxta ipsum commorantes firmiori pace sustententur sub stabilitate fidejussionis ejus vel alterius per denarium numerum , unde quilibet quasi plegius alterius : ita quod si unus feloniam fecerit , novem tenentur ipsum ad standum recto presentare . li . 1. c . 47. sect . Frithborgh . See Roger Hoveden , parte poster . suorum annal . In Henrico secundo . fol . 345 . a . b .

Frier (frater) commeth of the French (frere) there be foure orders reckoned of them , anno . 4 H . 4 . cap . 17. viz . Minours , Augustines , Preachers , and Carmelites , the foure principall orders , of which the rest descend . See in Zecchius de repub . eccl . pag . 380 . Looke Linwood , titulo de relig . dominibus . cap . 1. verbo . Sancti Augustini .

Frier observant (frater observans) is an order of Franciscans : for the better understanding of whom , it is to be noted , that of those 4. orders mentioned in the word (Frier) the Franciscans , are minores tam Observantes quam Conventuales & Capuchini . Zecchius de Repub . Eccl . tract . de regular . cap . 2. These Friars observants , you find spoken of anno 25 . H . 8 .

H. 8. cap. 12. who be called ob-servants, because they are not combined together in any Cloy-ster, Covent, or Corporation, as the conventionals are: but onely tye themselves to observe the Rites of their Order, and more strictly then the Conventionals doe: and upon a singularitie of zeale, sepa-rate themselves from them, li-ving in certaine places, and com-pañies of their owne chusing. And of these you may reade *Hospitian.* de orig. & progress. *Monachus.* fol. 878. cap. 38.

Friperer. is taken from the French (*fripier*) interpolator, one that scowreth up and cleanseth old apparell to sell againe. This word is used for a bastardly kind of bro-ker. anno 1. Jacob. cap. 21.

Frishborgh. See *Freeborgh.*

Frithsoken, signifieth suretie of defence, as *Saxon* saith in the de-scription of *England*, cap. 12. It seemeth to come of these two Saxon words, *frith*, or *frid*, or (*fred*) i. *pax*, and (*soken*. i. *qua-rene*) *Fleta* tearmeth it *frithsokne*, vel *forsokne*, yeelding this reason, *Quod significat libertatem habendi franci plegii.*

Fuer (*fuga*) commeth of the French (*fair*, i. *fugere*) though it be a verbe, yet it is used substan-tively in our Common Law, and is twofold: *fuer in fuit*, (*in facto*) when a man doth apparently and corporally flye, and *fuer in ley*,

(*in lege*) when being called in the County, he appeareth not un-till he be out-lawed: for this is flight in interpretation of Law. *Stawnf. pl. cor. lib. 3. cap. 22.*

Fugitives goods, (*bona fugitivo-rum*) be the proper goods of him that flyeth upon felony, which after the flight lawfully found, doe belong to the King. *Coke vol. 6. fol. 109. b.*

Furlong, (*ferlingum terra*) is a quantitie of ground contain-ing twentie Luggs or Poles in length, and every Pole fifteene foote and a halfe, eight of which Furlongs make a Mile, *Anno 35. Edward. prim. cap. 6.* It is otherwise the eighth part of an Acree. See *Acree*. In the former signification the *Romanes* call it (*stadium*,) in the latter (*juge-rum*). This measure which wee call a Pole, is also called a Perch, and differeth in length, according to the custome of the Countrey. See *Perch.*

Furre (*furrura*) commeth of the French (*fourrer*. i. *pellicula-re*) to line with skinnes. Of furre I find divers strange kinds in the Statute, *anno 24. H. 8. cap. 13.* as of Sables, which is a rich furre of colour betweene blacke and browne, being the skinne of a beast called a Sable, of quantitie betweene a Polecat, and an ordinarie Cat, and of fashion like a Polecat, *I i r* bred

bred in *Ruscia*, but most and the best in *Tartaria*. Lucerns, which is the skin of a Beast so called, being neere the bignesse of a Wolfe, of colour betweene red and browne, something mailed like a Cat, and mingled with blacke spots, bred in *Muscovia* and *Ruscia*, and is a very rich Furre. Genets, that is the skin of a Beast so called, of bignesse betweene a Cat and a Weezle, mailed like a Cat, and of the nature of a Cat, bred in *Spaine*; Whereof there bee two kindes, blacke, and gray; and the blacke the more precious Furre, having blacke spots upon it hardly to be seene. Foines, is of fashion like the Sable bred in *France* for the most part: the top of the Furre is blacke, and the ground whitish. Marterne, is a beast very like the Sable, the skin something courser, it liveth in all Countries that be not too cold, as *England*, *Ireland*, &c, and the best be in *Ireland*. Miniver, is nothing but the bellies of Squirrels, as some men say: others say, it is a little vermin like unto a Weezle milke white, and commeth from *Muscovie*. Fitch, is that which wee otherwise call the Polecat heere in *England*. Shankes, be the skin of the shank or leg of a kind of Kid which beareth the Furre, that wee call Budge. Calaber, is a little Beast,

in bignesse, about the quantitie of a Squirrell, of colour gray, and bred especially in High *Germany*.

GAbell (*gabellus, gabulum*) commeth of the French (*gabelle*, i. *vectigal*) and hath the same signification among our old Writers, that (*gabelle*) hath in *France*, for *M. Camden* in his *Britannia*, pag. 213. speaking of *Wallingford*, hath these words: *Continebat 276. bagas. i. domos reddentes novem libras de gablo:* and pag. 282. of *Oxford* these: *Hec urbs reddebat pro telonio & gablo, & aliis consuetudinibus per annum, Regi quidem viginti libras, & sex sextarios mellis: Comiti vero Algaro decem libras. Gabella (as Cassaneus defineth it, de consuet. Burgund. pag. 119. *Est vectigal quod solvitur pro bonis mobilibus, id est, pro hiis que vehuntur, distinguishing it from Tributum, quia Tributum est propriè, quod fisco vel Principi solvitur pro rebus immobilibus.**

Gage, (*vadium*) commeth of the French (*gager*, i. *dare pignus, pignore certare*) and is it selfe a French word nothing changed, but in pronunciation. It signifieth with us also, a pawn or pledge, *Glanvile*, lib. 10. cap. 6. where he saith thus: *Quandoque res*

res mobiles ponuntur in vadium, quandoque res immobiles, and a little after that, thus: Invadiatur res quandoque ad terminum, quandoque sine termino. Item quandoque invadiat res aliqua in mortuo vadio, quandoque non. And from that Chapter to the end of the twelfth in the same booke, he handleth this only thing. Though the word (*gage*) bee retained as it is a substantive, yet as it is a verbe, the use hath turned the *G.* into *W.* so as it is oftener written (*wage*:) as to wage deliverance, that is, to give securitie that a thing shall bee delivered. For if hee that distained, being sued, have not delivered the cattell that were distained, then hee shall not onely avow the distresse, but (*gager deliverance*) i. put in suretie, that hee will deliver the cattell distained. *Fitzb. nat. br. fol. 74. D. & 67. F.* whom see also *fol. 67. F. G.* yet in some cases, hee shall not bee tyed to make this securitie: as if the cattell died in pound. *Kitchin. fol. 145.* or if he claime a propriety in the cattell sued for. Termes of the Law. To wage law what it is, see in his place. *verbo. Lawe.* See *Mortgage.*

Gager deliverance. See *Gage.*

Gayle. See *Gaoll.*

Gainage, (Wainagium) is neere to the French (*Gaignage. i. quaestus, lucrum*) and signifieth in our

common law, the land held by the baser kind of Sokemen or villeines. *Braeton. lib. 1. cap. 9.* where he hath these words, speaking of servants: *Et in hoc legem habent contra dominos, quod stare possunt in judicio contra eos de vita & membris propter scvitiam dominorum, vel propter intolerabilem injuriam. Ut si eos destruant, quod salvum non possit esse Wainagium suum.* Hoc autem verum est de illis servis, qui tenent in antiquo dominico corone. And againe, *lib. 3. tract. 2. cap. 1. Miles & liber homo non amerciabitur nisi secundum modum delicti, secundum quod delictum fuit magnum vel parvum, & salvo contenemento suo: Mercator vero, non nisi salva mercandiza sua: & villanus, non nisi salvo Wainagio suo.* This in *Westm. 1. cap. 6. ann. 3.* Ed. prim. is called *Gaynure:* and againe, *cap. 17.* and *in magna charta, ca. 14.* it is called *Wainage.* I find it in the *old. nat. br. fol. 117.* called *Gainor, viz.* in these words: The writ of *Aile* was *precipe, &c. quod reddat unam bovatam terre, & unam bovatam marisci:* and the writ was abated for that the oxegang is alwayes of a thing that lyeth in gainor. I thinke this word was used of lands usually plowed, because they that had it in occupation, had nothing of it but the profit and fruite raised of it by their owne paines, toward their suste-

nance, nor any other title, but at the Lords will. Gainor againe in the same booke, fol. 12. is used for a Sokeman, that hath such land in his occupation. In the 32. chapter of the Grand Custumary of Normandie: *Gaigneurs be ruricole qui terras eleemosinatas possident*: and Britton useth gainer, for to plow or till, fol. 65. a. & 42. b. West. parte 2. symbol. titulo, Recoveries, sett. 3. hath these words: *A praece quod reddat*, lyeth not in *Bovata manerisci*, 13. Ed. 3. fol. 3. nor *de selione terra*. Edw. 1. for the uncertaintie: because a selion, which is a land, sometime containeth an acre, sometime halfe an acre, sometime more, and sometime lesse. It lyeth not of a garden, cottage, or croft. 14. Assis. 13. 8. H. 63. 22. Ed. 4. 13. *de virgata terra*. 41. 43. 13. Ed. 3. *de fodina*, *de minera*, *de mercatu*. 13. E. 3. for they bee not in demesn: but in gaine, &c. Lastly, in the statute of Distresses in the Exchequer. anno 51. Hen. 3. I find these words. No man of religion, nor other, shall bee distreined by his beasts that gaine the land.

Galege, (*galica*) seemeth to come of the French, (*gallocches*) which signifieth a certaine kinde of shoo worne by the *Gauls* in foule weather of old times. I find it used for some such imple-

ment. anno 4. Ed. 4. ca. 7. & anno 14. & 15. H. 8. cap. 9. where it is written plainly. *Gallocches*.

Galingal (*cyperus*) is a medicall herbe, the nature and diversitie whereof is expressed in Gerards Herball, lib. 1. cap. 22. The roote of this is mentioned for a drugge to be garbled. anno 1. Jaco. cap. 19.

Gallibalphens, were a kinde of coine forbidden by the statute. anno 3. H. 5. cap. 1.

Gallocches. See *Galege*.

Gals (*Galle*) be a kind of hard fruit like a nutte, but rounder, growing of the tree called in Latine (*galla*.) The divers kinds and uses whereof Gerard expresseth in his Herball. lib. 3. cap. 34. This is a drugge to be garbled. anno 1. Jaco. cap. 19.

Gaol (*gaola*) commeth of the French (*Geole*. i. *caveola*) a cage for birds, but is metaphorically used for a prison. Thence commeth (*Geolier*) whom wee call *Gayler* or *Gaoler*.

Garbe (*garba*) commeth of the French (*garbe*, *aliás*, *gerbe*. i. *fascis*.) It signifieth with us, a bundle or sheafe of corne. *Charta de foresta*. cap. 7. and *garba sagittarum*, is a sheafe of arrowes. *Skene de verb.* significat *verbis*. *Garba*.

Garbling of bow-staves. anno 1. R. 3. cap. 11. is the sorting or culling out the good from the bad.

bad. As garbling of Spice, is nothing but to purifie it from the drosse and dust that is mixed with it. It may seeme to proceed from the Italian (*garbo*) that is, fineesse, neatnesse.

Gard (*Custodis*) commeth of the French (*garde*) being all of one signification. It signifieth in our common law, a custodie or care of defence : but hath divers applications : sometimes to those that attend upon the safetie of the Prince, called Yeomen of the Guard: sometime to such as have the education of children under age, or of an Idiot : sometime to a writ touching Wardship. Which writs are of three sorts : one called a right of guard or ward, in French, *droit de gard*, *Fitzb. nat. br. fol. 139.* The second is *ejectment de gard*. *Idem fol. 139. L.* The third, is *ravissement de gard*. *Idem. fol. 140. F. G.* See *Gardein*, see *Ward*.

Gardein (*Custos*) commeth of the French (*Gardien*) and yet the German (*Warden*) is neere unto it. It signifieth generally him, that hath the charge or custodie of any person or thing : but most notoriously him, that hath the education or protection of such people, as are not of sufficient discretion, to guide themselves and their owne affaires, as Children and Idiots :

being indeede as largely extended, as both (*Tutor* and *Curator*) among the Civilians. For whereas *Tutor* is hee, that hath the government of a youth, untill hee come to fourteene yeares of age, and *Curator*, hee that hath the disposition and ordering of his substance afterward, untill he attaine to five and twenty yeares; or that hath the charge of a franticke person during his lunacie: the common Lawyers use but onely *Gardien* or *Gardian* for both these. And for the better understanding of our English Law in this thing, you must know, that as *tutor* is either *testamentarius*, or à *Prætore datus ex lege Atilia*, or lastly, *legitimus*: so wee have three sorts of *Gardeines* in England: one ordained by the father in his last will, another appointed by the Judge afterward, the third cast upon the Minor by the law and custome of the land. Touching the first, a man having goods and chatels never so many, may appoint a *gardein* to the body or person of his child, by his last will and testament, untill he come to the age of fourteene yeares, and so the disposing or ordering of his substance, untill what time he thinketh meet, and that is most commonly to the age of 21. years. The same may he doe, if he have lands to never so great a value, so they

hold not *in capite* of the King, nor of any other Lord, by Knights service. And in the former case, if the father appoint no Gardein to his child, the Ordinarie may appoint one to order his moveables and chattels, untill the age of fourteen yeares: at which time hee may chuse his guardian, accordingly as by the civil Law hee may his *Curator*. For wee hold all one rule with the Civilians in this case: and that is, *Invito curator non datur*. And for his lands, if he hold any by copie of court rolle, commonly the Lord of the fee appointeth him a guardian, untill he come to the age of 14. yeares, and that is one, next of kind to the Minor of that side, that can hope for least profit by his death. If he hold by charter in socage, then the next of kind on that side by which the land commeth not is the guardian: and hereupon called *guardian in socage*. And that which is said here of socage seemeth to be true likewise in *petit serjeantie*, anno vicesimo octavo *Edvardi primi. statuto primo.* And the reason of this, *Fortescue* giveth in his booke, intituled, *A commendation of the politique lawes of England. cap.44.* viz. because there might bee suspition, if the next kinsman on that side by which the land descendeth, should have the custody

and education of the child, that for desire of his land, he might bee entised to worke him some mischiefe. Lastly, if a man dye seised of lands, holding by Knights service, leaving his heire in minoritie, that is, under 21. yeares: the Lord of the fee hath by law, the custody both of the heire and his land, untill he come to age. See the statute, anno 28. *Ed. prim. statut. prim.* And the reason of this, *Fortescue* likewise giveth, for that hee to whom by his tenure he oweth Knights service, when hee can performe it, is likeliest to traine him up in martiall and ingenious discipline, untill he be of abilitie. But *Polidore Virgil* in his Chronicle, lib. 16. saith, that this was *Novum vestigalium genus excogitatum*, to helpe *Henry the third*, being oppressed much with povertie, by reason hee received the kingdome much wasted by the wars of his ancestors: and therefore needing extraordinary helpe to uphold his estate: yet the 33. chapter of the Grand Custumary, maketh mention of this to have beene used by the *Normans*: and I thinke this the truer opinion. Here it is to be observed, whether land in Knights service hold *in capite*, or of another Lord, or some of the King, and some of another. If of the King, whether of the King alone or not, all is one.

one. For the King in this case is Guardian to the heires both person and land by his prerogative.

Stannford prerogat. cap. 1. If hee hold of a common Lord, it is either of one alone, or more; if of one onely, then is hee Guardian of both person and lands; if of more, then the Lord of whom hee holdeth by the elder tenure, is Guardian of the person, and every one of the rest hath the custodie of the land holden of himselfe. If the prioritie of the tenure cannot be discerned, then is hee Guardian of the person, that first happeneth him. Termes of the law. *Stannford ubi supra*, whom you may reade more at large: which Author fol. 19. maketh mention of *Gardeyn in feit*, and *Gardeyn in droit*: that is, in deed, and in law: I take the first to be him that hath purchased, or otherwise obtained the ward of the Lord of whom the land holdeth: The second, him that hath the right by his inheritance and seignorie, *Old nat. br. fol. 94.* Then is there *Gardeyn per cause de gard*, which is hee that hath the wardship of a Minor, becaſe hee is Guardian of his Lord, being like-
wise in minoritie, *Stannford ubi supra. fol. 15.* Of this you may reade *Skene de verb. signif. verbo Varda*, by whom you may learne great affinitie, and yet some dif-

ference betwenee the Law of Scotland, and ours in this point.

Guardia, is a word used among the Feudists, for the Latine (*Custodia*) and *Guardianus seu guardio dicitur ille, cui custodia commis- fa est, lib. Fendo. 1. titulo 2. & titulo 11.*

Gardeyn of the Spiritualties, (*Custos spiritualium, vel spiritua- litatis*) is he to whom the spirituall jurisdiction of any Diocesse is committed, during the vacancie of the See, *anno 25. H. 8. cap. 21.* And I take, that the *Gardeyn of the Spiritualties*, may be either *Guardein in law*, or *Jure Magistratus*, as the Arch-bishop is of any Dioces within his Province, or Guardian by delegation, as he whom the Arch-bishop or Vicar generall doth for the time de-pute.

Gardeyn of the peace, (*Custos pacis.*) *See Conservator of the peace.*

Gardeyn of the Cinque ports, (*Gardianus quinque portuum*) is a Magistrate that hath the jurisdiction of those Havens in the East part of *Englnd*, which are commonly called the Cinque ports, that is, the five havens: who there hath all that jurisdiction, that the Admirall of *England* hath in places not exempt. The reason why one Magistrate should be assig-
ned to these few Havens, seemeth

to bee, because they in respect of their scituacion, anciently required a more vigilant care, then other Havens, being in greater danger of invasion by our enemies, by reason that the Sea is narrower there then in any other place. *M. Camden* in his *Britannia*, pag. 238. saith, that the Romanes, after they had settled themselves and their Empire here in *England*, appointed a Magistrate, or Governoour over those East parts, whom they rearmed *Comitem littoris Saxonici per Britanniam*, having another that did bear the same title on the opposite part of the Sea: whose office was to strengthen the Sea Coasts with Munition, against the outrages and robberies of the Barbarians. And farther signifieth his opinion, that this Warden of the Cinque ports, was first erected amongst us, in imitation of that Romane policie. See *Cinque ports.*

Gare, anno 31. Ed. 3. cap. 8. is a courfe wooll full of staring haires, as such as growtheth about the pesill or shankes of the Sheepe.

Garnishment, commeth of the French (*Gareir. i. instruere.*) It signifieth in our common law, a warning given to one for his appearance, and that for the better furnishing of the cause and

Court. For example, one is sued for the detinue of certaine Evidences or Charters, and saith, that the Evidences were delivered unto him, not onely by the Plaintiff, but by another also: and therefore prayeth, that that other may be warned to pleade with the Plaintiff, whether the said conditions bee performed, yea, or no. And in this petition bee is said to pray Garnishment. *New booke of Entries, fol. 211. colum. 3. Terms of the Law. Cromptons Jurist. fol. 211.* which may be interpreted either warning of that other, or else furnishing of the Court with parties sufficient, throughly to determine the cause: because untill he appeare and joyne, the Defendant (as *Fitzherb.* saith) is, as it were, out of the Court, *out. br. fol. 106. G.* and the Court is not provided of all parties to the action. I am the bolder thus to interpret it, because I finde *Britton* in the same mind, *cap. 28.* where he saith, that contracts be some naked, and *sans* garment, and some furnished, or to use the literall signification of his word, apparelled: but a naked Obligation giveth no action, but by common assent. And therefore it is necessary or needfull, that every Obligation be appareled. And an Obligation ought to be appareled with these five sorts of

of garnements, &c. Howbeit, I reade it generally used for a warning in many places, and namely, in *Kitechin*, fol. 6. *Garnifber le coart*, is to warne the Court. And reasonable garnishment in the same place, is nothing but reasonable warning: and againe, fol. 283. and many other Authors also. But this may be well thought a Metonymie of the effect, because by the warning of parties to the Court, the Court is furnished and adorneed.

Garrantis. See *Warrantis.*

Garter (*Garterium*) commeth of the French (*garterie* or *Jarrier*. i. *periscelis, fascia poplitaria.*) It signifieth with us both in divers Statutes, and otherwise, one espe- ciall Garter, being the ensigne of a great and Noble Societie of Knights, called Knights of the Garter. And this is *καὶ ἐπὶ γάτῃ* as *Pois* among the *Gracissimis*, was *Homer*, among the *Romans*, *Virgill*, because they were of all others the most excellent. This high order (as appeareth by *M. Camden*, pag. 211.) and many o- thers, was first instituted by that famous King, *Edward* the third, upon good successe in a skirmish, wherein the Kings Garter (I know not upon what occasion) was used for a token. I know that *Polydore Virgill* casteth in another suspicion of the originall:

But his grounds, by his owne confession, grew from the Vulgar opinion: yet as it is, I will mention it as I have read it. *Edward* the third, King of *England*, after hee had obtained many great victories: King *John* of *France*, King *James* of *Scotland*, being both prisoners in the Tower of *London* at one time; and King *Henry* of *Castile*, the Bastard expulsed, and *Don Pedro* restored by the Prince of *Wales*, did upon no weightie occasion first erect this order in *Anno 1350. viz.* Hee dancing with the Queene, and other Ladies of the Court, tooke up a Garter that happened to fall from one of them: whereat some of the Lords smiling, the King said unto them, that ere it were long, hee would make that Garter to bee of high reputation, and shortly after instituted this order of the Blew Garter, which every one of the order is bound daily to weare, being richly decked with Gold and precions stones, and having these words written, or wrought upon it: *Honi soit qui mal y pence:* which is thus commonly interpreted: Evill come to him that evill thinketh. But I thinke it might be better thus: Shame take him that thinketh evill. See Knights of the Garter. *M. Ferne* in his glory of generositie agreeth with *M. Camden*, and expresseth

setterth downe the victories, whence this order was occasioned: whatsoever cause of beginning it had, the order is inferior to none in the world, consisting of 26. martiall and heroicall Nobles, whereof the King of *England* is the chiefe, and the rest bee either Nobles of the Realme, or Princes of other Countries, friends and confederates with this Realm; the Honour being such, as Emperours and Kings of other Nations, have desired, and thankfully accepted it: he that will read more of this, let him repaire to *M. Camden*, and *Polidore*, and *M. Ferne*, fol. 120. *ubi supra*.

The Ceremonies of the chapter proceeding to election, of the investures and robes: of his installation, of his vow, with all such other Observances, see in *M. Segars* new booke, intituled *Honour militarie and civil*, lib. 2. cap. 9. fol. 65. Garter also signifieth the principall King at Armes, among our English Heraldes created by King Henry the fifth, *Stow*. pag. 584.

Garthman, anno 13. R. 2. stat. 1. ca. 19. & anno 17. ejusd. ca. 9.

Gavelot, is a speciall and ancient kind of *Cessavit* used in *Kent*, where the custome of Gavell kind continueth: whereby the tenent shall forfeit his Lands and tene- ments to the Lord of whom hee holdeth, if hee withdraw from

him his due rents and services. The new *Expounder of Law Termes*, whom reade more at large: I reade this word, *anno 10. Edw. 2. cap. unico.* where it appeareth to be a writ used in the *Hustings* at *London*. And I find by *Fleta*, that it is used in other liberties, as the *Hustings* of *Winchester*, *Lincolne*, *Torke*, and the *Cinque ports*, lib. 2. cap. 55. in *principio*.

Gavelkind, is, by *M. Lambert* in his exposition of Saxon words, *verbo. Terra ex scripto*, compounded of three Saxon words, *gyfe, cal, cin: omnibus cognatione proximiis data*: But *M. Verstegan* in his restitution of his decayed intelligence, *cap. 3.* calleth it (*Gavelkind*) *quasi*, give all kinde, that is, give to each childe his part. It signifieth in our common Law, a custome, whereby the Lands of the Father is equally divided at his death amongst all his sons, or the land of the Brother equally divided among the Brethren, if hee have no issue of his owne, *Kitch. fo. 102.* This custome is said to bee of force in divers places of *England*, but especially in *Kent*, as the said *Anthour* reporteth; shewing also the cause why Kentish men rather use this custome, than any other Province. *viz.* because it was a composition made betweene the Conquerour and them, after all *England*

England beside was conquered, that they should enjoy their ancient customes, whereof this was one. For M. Camden in his *Britannia*, pag. 239. saith in expresse words thus: *Cantiani et kge Graelmo Normanno se dediderunt, ut patrias consuetudines illas retinerent, illamq; in primis quam Gavelkind nominant. Hec terra que e nomine censentur, liberis masculis ex equis portionibus dividuntur: vel feminis, si masculi non fuerint: adding more worth the noting, viz. Hanc hereditatem, cum quintum decimum annum attigerint, aderint, & sine Domini consensu, cilibus, vel dando, vel vendendo, alieno licet. Hac filii parentibus fuit damnatis in id genus fundis succedunt, &c.* This custome in divers Gentlemens lands, was altered at their owne petition, by Act of Parliament. anno 31. H. 8. cap. 3. But it appeareth by 18. H. 6. cap. pri. that in those dayes there were not above thirty or fourty persons in Kent, that held by any other tenure. See the new Termes, *Gavelot*, and *Gavelkinde*.

Gangeour, (*gangrator*) seemeth to come of the French (*Gawchir. i, in gyrum torquere.*) It signifieth with us an Officer of the Kings appointed to examine all Tunnes, Hogsheads, Pipes, barrels, and tercians of wine, oyle, honey, butter, and to give them a

marke of allowance, before they bee sold in any place. And because this marke is a circle made with an iron Instrument for that purpose: It seemeth that from thence hee taketh his name. Of this Office you may finde many Statutes: the first whereof is, anno 27. Ed. 3. commonly called the statute of provision, or *Purveyours*, cap. 8.

Geld, signifieth with the Saxons, *pecunia vel tributum*. See *Gylde*.

Genets, alias *Jenets*. See *Furre*.

Gentleman, (*generosus*) seemeth to bee made of two words, the one French, (*gentil. i. honestus, vel honesto loco natus:*) the other Saxon (*Mon*) as if you would say, a man well borne. The *Italian* followeth the very word, calling those (*gentil homini*) whom wee call *Gentlemen*. The *Spaniard* keepeth the meaning, calling him *Hidalgo*, or *Hijo d'algo*, that is, the sonne of some man, or of a man of reckoning. The French men call him also *gentil homme*: so that *Gentlemen* be those, whom their blood and race doth make noble and knowne. *εὐερεῖς* in *Greeke*, in Latine, *Nobis*. *Smith de Repub. Anglor. lib. i. cap. 20.* under this name are all comprised that are above *Yeomen*: so that *Noblemen* be truely called *Gentlemen*.

But by the course and custome of England, Nobilitie is either major or minor: the greater containes all titles and degrees from Knights upward: the lesser all from Barons downeward. *Smith ubi supra, cap. 21.* The reason of the name, as I take it, groweth from this, that they observe gentilitatem suam, that is, the race and propagation of their bloud, by giving of armes, which the common sort neither doth, nor may doe. For by the Coate that a Gentleman giveth, he is known to bee, or not to bee descended from those of his name, that lived many hundred yeeres since. Howbeit, that this is neglected, where substance faileth to maintaine the countenance. For many of great birth fall to poverty, whose posteritie living and labouring in want, have small encouragement, to looke after the titles of their Auncestors, and so in time slippe into the number of the ignoble sort: yet if they by their vertue or fortune, can againe advance themselves to sufficient abilitie, the Herald out of his observations can restore them to the Coate of their Progenitors, and now and then helpe them to one, that their Auncestors never ware. *Gentiles homines, see in Tiraquet. de Nobilitate, cap. 2. pag. 53.* *Tully in his Tropickes thus saith of this matter. Gentiles sunt,*

qui inter se eodem sunt nomine ab ingenuis oriundi, quorum majorum nemo servitutem servivit, qui capite non sunt diminuti. And in the first booke of his *Tusc. questions*, hee calleth *Tullum Hostilium*, one of the Kings of Rome, gentilem suum.

Generall Issue. vid. Issue.

Gestu & fama, is a writ. Lamb. Eirenarcha. lib. 4. ca. 14. ps. 531.

Gygee milles, were for the Fulling of Woollen Cloth and forbidden, Anno 5. Edward 6. cap. 22.

*Gild: alias Geld (gildare) commeth from the Saxon word (Gildan) i. solvere, Lamb. in his explication of Saxon words saith, verbo, *Contubernalis*. It is used as a verbe, and as a substantive also, and at it is a substantive, it is latinized *Gilda*, and signifieth a Tribute, or sometime an amercement, or thirdly, a Fraternitie or Company, combined together by orders and Lawes made among themselves by the Princes licence. M. Camden citeth many antiquities, by which it appeareth to signifie a tribute or taxe, as ps. 135. 139. 159. 168. 178. M. Crompton in his Jurisdictions, fol. 191. sheweth it to be an amercement, as footgeld, and fol. 197. hee interpreteth it to bee a prestation within the Forrest, in these words: To be quit of all manner of *Gelds*, is to be discharged of all manner*

manner of prestations to bee made for gathering of sheves of Corne, of Lambe, and of Wooll to the use of *Foresters*. Againe, *M. Camden*, pag. 549. dividing Suffolke into three parts, calleth the first *Gildable*, because tribute is thence gathered; the second *libertatem S. Edmundi*: The third *libertatem S. Ethebredae*. And the Statutes: anno 27. Ed. 3. stat. 2. cap. 13. & anno 11. H. 7. ca. 9. use *Gildable* in the same sense, and so doth the Statute, anno 27. Hen. 8. ca. 26. From this *M. Lamberd*, ubi supra, is likewise perswaded, that the common word (*Gild*) or (*Gildhall*) doth proceed, being a Fraternity or Communaltie of men gathered into one combination, supporting their common charge by a mutuall contribution: And in the Register origi- nall, fol. 219. b. I reade *Gildans mercatorism*, that is the *Gilde Merchant*, which I have heard to bee a certaine liberty or privilege belonging to Merchants, whereby they are enabled to hold certaine plees of Land within their owne Precincts. This word (*Gildes*) or (*Gildes*) is so used anno 37. Edi. 3. cap. 51. & anno 15. R. 2. cap. 5. And *Gildhalls Teutonicorum*, is used for the fraternitie of easterling Merchants in London, called the *Sityard*, anno 22. Hen. 8. cap. cclxv.

Ginger (Zinziber) is a spice well knowne, being the roote of a plant that groweth in hot countries, as *Spaine, Barbary, &c.* The true forme whereof you have expressed in *Gerards Herball*, l. 1. cap. 38. This is a spice whose root is to bee garbled, anno 1. *Jacob.* cap. 19.

Gimy peper (piper de Ginnes) is otherwile called *Indiam peper*, of the place whence it commeth. The nature and farther description whereof you have in *Gerards Herball*. l. 2. cap. 66. This you have mentioned among druggs and splices to be garbled, in the Statute i. *Jaco.* cap. 19.

Gisarmis: anno 13. Ed. 1. stat. 3. cap. 6. is a kind of weapon. *Fleta* writeth it *Sisarmes*. l. 1. cap. 24. §. item quod quilibet.

Glawnce Ore; Plowden casu Mines fol. 320. b.

Glanvill was a learned Lawyer, that was chiefe Justice in *Henry the seconds dayes*, and writ a Booke of the common Lawes of *England*, which is the ancientest of any extant touching that subject. *Stawnf. prærog.* cap. prim. fol. 5. Hee was then called in Latine *Ranulphus de Glanvilla*. Hee dyed in *Richard* the first his dayes at the Citie of *Acres* in the coast of *Jury*, being with him in his voyage to the Holy Land. *Plowden. casu. Stowl.* folio 368. b.

Goe, is used sometime in a special signification in our common Law : as to goe to God, is to bee dismissed the Court. *Brooke titulo. Fayler de records, num. 1.* Goe forward, seemeth also to be a signe given by a Judge to the Sergeant or Counsellor, pleading the cause of his Clyent, that his cause is not good. For when hee standeth upon a point of Law, and heareth those words of the Judges mouth, he taketh understanding, that hee loseth the action. *Smith de Repub. Angli lib. 2. cap. 13.* To go without day, is as much as to be dismissed the Court. *Kitckin, fol. 193.*

Good behavior. See *Good abearing.*

Good abearing, (Bonis gestis) is, by an especiall signification, an exact carriage or behaviour of a subject, toward the King and his liege people, whereunto men upon their evill course of life, or loose demeanure are sometimes bound. For as *M. Lamberd* in his *Eirenarcha, lib. 2. cap. 2.* saith : hee that is bound to this, is more strictly bound than to the peace : because, where the peace is not broken without an affray, or baterie, or such like : this surety (*de bono gestu.*) may bee forfeited by the number of a mans company, or by his or their weapons or harness : Whereof see more in that learned Writer in the same chapter, as also in *M. Cromptons*

*Justice of peace, fol. 119. b. 120. 121.
122. 123. 124. 125. 126. 127.*

Good countrey, (Bona patria) is an Assise, or Jury of Country men or good neighbours : *Skene de verbo signif. verbo, Bona patria.*

Graffer (grafarium) signifieth as much as a notarie or Scrivener. It commeth of the French (*greffier, i. scriba, actuarius.*) This word is used in the Statute, *an. 5. H. 8. c. 1.*

Graines (grana paradisi, alias Cardamomum) is a spice medicinable and wholesome, whereof you may see divers kindes in *Gerards Herball, l. 3. c. 148.* These are comprised among merchandise that be to be garbled. *an. 1. l. c. 19.*

Grand assise. See *Assise*, and *Magna assisa.*

Grand Cape. See *Cape* and *Attachment.*

Grand Sergeanty. See *Ghyvalrie, and Sergeanty.*

Grand distressé : (*Magna distretio*) is a distresse taken of all the lands, and goods, that a man hath within the Countie or Bayliwicke, whence hee is to be distrained : *Fleta lib. 2. cap. 69. §. penult.* See *Distressé.* This word is used anno 51. H. 3. cap. 9. This falleth out when the Defendant hath beene attached, and yet appeareth not upon his attachment ; or when hee appeareth and afterward makes default. For then the Sheriffe is commanded to distrain the Defendant, by all his goods and

and cattels, and to answer the King
the issues of his Lands.

Grange (*grangia*) is a house or
building, not onely where Corne
is laid up, as Barnes be, but also
where there bee stables for horses,
stalles for oxen, and other cattell,
stybes for hogges; and other things
necessary for husbandry, *Lindwood*,
ca. item omnes de judiciorum verbo,
Grangiis, in glossa.

Grant (*Concessio*; *grantum*)
Glanvile, signifieth specially in
our common Law, a gift in writing
of such a thing, as cannot
aptly bee passed or conveyed by
word onely: as Rent, Revertions,
Services, Advowsons in grosse,
Common in grosse, Villein in
grosse, Tithes, &c. or made by
such persons, as cannot give but
by deed, as the King, and all bodies
politicke: which differences be often in speech neglected,
and then is it taken generally for
every gift whatsoever, made of
any thing by any person, and hee
that granteth it, is named the
Grantour, and hee to whom it is
made, the Grantee, *Weff. parte 1.*
symbol. lib. 2. Sect. 334. A thing is
said to lie in grant, which cannot
be assigned without deeed, *Coke, li.*
3. Lincolns Coll. case, fo. 63. 1.

Great men, are sometimes un-
derstood of the Laity of the higher
house of Parliament, as *an. 43.*
Ed. 3. ca. 2. & an. 8. R. 2. in proem.
and sometime of the Knights, &c.

of the lower house, as *an. 2. R. 2.*
& ut. 2. in principio.

Gree, commeth of the French
(*Gre. i. sententia, beneplacitum.*)
It signifieth in our common Law,
contentment or good liking: as
to make gree to the parties, is to
satisfie them for an offence done,
anno 1. R. 2. ca. 15.

Greachbreach, is breaking of
the peace. *Saxon* in the description
of *England*, *ca. 11. v. Rastal. titulo Exposition of words.* The new
expounder of Law Termes wri-
teth it (*Grichbreach*) and giveth
it the same signification. See
Greue.

Greene bewe, is all one with
vert, *Manwood parte 2. of his forest*
lawes, ca. 6. nu. 5. See *Vert.*

Greene waxe, seemeth to bee used
for estreats delivered to She-
riffes out of the Exchequer, under
the Seale of that Court, to be le-
vied in the Countie, *anno 42. Ed.*
3. ca. 9. & anno 7. H.4. ca. 3. See
Forein apposer.

Greve (*propositus*) is a word of
power and authoritie, signifying
as much as *Dominus*, or *prefectus*.
Lamberd in his Exposition of Saxon
words, verbo Praefectus. where hee
seemeth to make it all one with
(*Reve*) as I thinke undoubtedly
it is? The Saxon word is *Gerefa*,
whereof wee have divers words
compounded, as *Shyreeve*, *Port-*
greeve, &c. which were wont of
the Saxons to bee written *Seyrge-*
refis:

refa: Portgrefa. See *Shyreeve* and *Portgreve.* See *Roger Hoveden parte poster.* *suorum annal.* fol. 346. b. where hee saith thus: *Greve dicitur, ideo quod jure debet grithe.* i. *pacem ex illis facere, qui patria inferrunt Vae i. miseri am vel malum.*

Gritbrech, is a breach of peace. For *Gritb* is a word of the old Angles, signifying peace. *Roger Hoveden parte poste.* *suorum annal.* fol. 346. b. See *Greachbreach.*

Grills, anno 22. Ed. 2. ca. 2.

Grocers, be Merchants that ingrosse all Merchaundize vendible, anno 37. Ed. 3. ca. 5.

Groome, anno 33. H. 8. cap. 10. (*Valletus*) is the name of a servant that serveth in some inferiour place. *M. Verstegan in his Restitution of decasyd intelligence* saith, that hee findeth it to have beeene in times past a name for youths, who albeit they served, yet were they inferiour to men servants, and were sometimes used to bee sent on foot of errands, serving in such manner as Lackeyes doe now.

Gromme, an. 43. E. 3. ca. 10. seemeth to bee an engine to stretch Woollen cloth withall after it is woven.

Gnydage (*Guydagium*) is that which is given for safe conduct through a strange territorie, *Cassanens de consuetud.* *Burgum.* pag. 19. whose words be these: *Est Guydagium quod datur alicui, ut*

tutu conducatur per loca alterius.

Gylde. See *Gyld.*

Gylhsilda Teutonicorum. See *Gild.*

Gule of August (*Gula Augusti*) anno 27. Ed. 3. stat. 3. cap. unico *Fitzb. nat. br.* fol. 62. I. alias *Goule de August.* *Plowd. cajm Mines,* fo. 316. b. is the very day of Saint Peter *ad vincula*, which was wont, and is still within the limits of the Roman Church, celebrated upon the very Kalends of *August.* Why it should bee called the *Gule of August.* I cannot otherwise conjecture, but that it commeth of the Latine (*gula*) or the French (*guen'e*) the throat. The reason of my conjecture is in *Durands rationali divisionum.* l.7. ca. de festo Sancti Petri *ad vincula.* who saith that one *Quirinus a Tribune*, having a Daughter that had a disease in her throat, went to *Alexander* then Pope of *Rome*, the sixth from Saint Peter, and desired of him to borrow, or see the chaines that Saint Peter was chained with under *Nero*: which request obtained, his said Daughter kissing the said chaine, was cured of her disease, and *Quirinus* with his family was baptised. *Tunc dictus Alexander papa* (saith Durand) *boc festum in Kalendas Augusti celebrandum instituit, & in honorem beatissimi Petri Ecclesiam in urbe fabricavit, ubi vincula ipsi reposuit, & ad in-*

vincula nominavit; et Kalendis Augusti, dedicavit. In qua festivitate, populus illic ipsa vincula hodie osculatur. So that this day bee-
ing before called onely the Kal-
lends of August, was vpon this
occasion afterward tearemed indif-
ferently, either of the instru-
ment that wrought this miracle,
S. Peters day ad vincula, or of
that part of the maiden whereon
the miracle was wrought, the Gule
of August.

Gultwit seemeth to be com-
pounded of *Gult*, i. *noxa*, and *wit*;
which is sayd by some skilful men
to bee an ancient termination of
the words in the Saxon tongue,
signifying nothing in it selfe but
as *dom* or *hood*, and such like bee
in these English words, Christen-
dom, & Manhood, or such others.
Others say, and it is true, that *wit*
signifieth blame or reprehension.
Gultwit (as *Saxon* in his De-
scription of England, ca. 11, doth
interpret it) is an amends for tres-
passe.

Gust (*Hospes*) is used by *Braetton*
for a stranger or guest that lod-
geth with us the second night:
lib. 3, trattat 2, ca. 10. In the laws
of Saint Edward, set forth by
Master Lambert, num. 27, it is
written *Gift*. Of this see more in
Uncotie.

Gummie (*gummi*) is a certaine
clammy or tough liquor, that in
manner of a sweaty excrement is-

such out of trees, and is hardned
by the Sunne. Of these there be
divers sorts brought over seas, that
be drugs to be garbled; as appear-
eth by the statute, *Anno 1. Jac.*
ca. 19.

Gutter tile, alias corner Tyle, is a
tile made three corner wise, espe-
cially to bee layd in Gutters, or
at the corners of tyled houses;
which you shall often see upon
Dove-houses, at the foure corners
of their roofes, *anno 17 Edw.* 4.
ca. 4.

Habeas corpus is a writ, the
which a man indited of some
trespass before Justices of peace,
or in a court of any franchise, and
upon his apprehension being layd
in prison for the same, may have
out of the Kings bench, therby to
remoove himselfe thither at his
owne costs, and to answer the cause
there, &c. *Fitz. nat. brev. fo. 250 b.*
And the order is in this case, first to
procure a *Certiorari* out of the
Chancery, directed to the said Ju-
stices, for the removing of the In-
ditement into the Kings Bench,
and upon that, to procure this writ
to the Sheriff, for the causing of
his body to be brought at a day:
Reg. jud. fo. 81, where you shal find
divers cases wherein this writ is
used.

Habeas corpora; is a writ that
lieth

lieth for the bringing in of a Iurie, or so many of them, as refuse to come upon the (*venire facias*) for the triall of a cause brought to issue, *Old nat. brev.* fol. 157. See great diversitie of this writ, in the table of the Register Judiciall, *verbo*, *habens corporis*; and the new booke of Entries, *verbo eadem*.

Habendum, is a word of forme in a deed of conveyance, to the true understanding whereof, you must know, that in every deed of conveyance, there be two principall parts, the Premises, and the *Habendum*. The office of the Premisses is, to expresse the name of the Grantour, the Grantee, and the thing granted, or to be granted. The office of the (*habendum*) is to limit the estate, so that the generall implication of the estate, which by construction of law passeth in the Premisses, is by the (*habendum*) controlled and quallified. As in a lease to two persons, the (*habendum*) to one for life, the Remainder to the other for life, altereth the generall implication of the joyn't tenancie in the free-hold, which shoulde passe by the Premisses, if the (*habendum*) were not. *Coke, vol. 2. Bucklers case.* fol. 55. See *Use*.

Habere facias scismam, is a writ Judicial, which lieth, where a man hath recovered lands in

the Kings Court, directed to the Sheriffe, and commanding him to give him seisin of the land recovered, *Old nat. brev.* fol. 154. *Termes of the Law*: whereof see great diversity also in the table of the Register Judiciall, *verbo*. *Habere facias seismam*. This writ is issuing sometime out of the Records of a fine executorie, directed to the Sheriffe of the Countie, where the land lieth, and commanding him to give to the Cognizee or his heires, seisin of the land, whereof the fine is levied; which writ lyeth within the yeare after the fine, or Iudgement upon a (*Scire facias*) and may be made in divers formes, *West. parte 2. symb. titulo Fines. Sect. 136.* There is also a writ called *Habere facias seismam, ubi Rex habuit annum, diem, & vestum*, which is for the redelivery of lands to the Lord of the Fee, after the King hath taken his due of his lands, that was convicted of felonie, *Register origin.* fol. 165.

Habere facias visum, is a writ that lieth in divers cases, where view is to be taken of the lands or tenements in question. See *Fitz. nat. br. in Indice. verbo* (*View*) See *Braetoni. li. 5. tract. 3. ca. 8. & lib. 5. parte 2. ca. 11.* See *view*. See the Register Judiciall, fo. 1, 26, 28, 45, 49, 52.

Haberjects (*Hauberitens pan-*
nus)

*nus) magn. chart.ca. 25. & papilla
oculis. parte. 5. ca. 22.*

Hambles, is the plurall of the French (*bable*) signifying as much as a porte or haven of the sea, whence ships doe set forth into other countries; and whether they doe arrive, when they returne from their voyage. This word is used, anno 27. Hen. 6. cap. 3.

Herede deliberando alii qui habet custodiam terra, is a writ directed to the Sheriffe, willing him to command one having the body of him, that is ward to another, to deliver him to him, whose ward hee is by reason of his land. Register. originall. fol. 161.b.

Herede abdulatio, is a writ that lyeth for the Lord, who having the wardship of his tenent under age by right, cannot come by his body, for that hee is conveyed away by another. Old. nat. br. fol. 93. See *Ravishment de Gard*, and *Herederapto*, in Regist. orig. fol. 163.

Heretico comburendo, is a writ that lyeth against him, that is an heretike. vizi. that having beeene once convinced of heresie by his Bishop, and having abjured it, afterward falleth into it againe, or into some other, and is thereupon committed to the secular power. Fitz. nat. br. fol. 269. 01

Haga, is used as a kind of la-

tine word for a house. I find in an ancient booke sometime belonging to the abbey of Saint Augustines in Canterbury, that King Stephen sent his writ to the Sheriffe and Justices of Kent, in this manner. *Stephanus Rex Anglorum vicecomiti & Inſticiariis de Kent ſakatem. precipio quod faciatis habere eccleſia sancti Auguſtini & monachis bagam ſuam quam Gosceoldus eis dedit, ita bene & in pace & iuste & quiete & libertate, ſicut eam eis dedit in morte ſua coram legalibus teſtib⁹, &c.*

Hagbut, See *Haque* and *Haquebut*.

Haye boke, seemeth to be compounded of (*Haye. i. Sepes*) and (*Bote. i. compensatio*) The former is french, and the second is Saxon. And although it doe fall out ſometyme, that our words be ſo compounded: yet it is rare. Wherefore it may be thought peradventure to come as well from (*Hag*) and (*Boote*) which be both Saxon words. It is used in our common law for a permission to take thornes and freeth to make or repaire hedges.

Halfe haque, See *Haque*.

Halfe merke (*dimidia merka*) ſeemeth to ſignifie a noble. Fitz. nat. br. fol. 5. where hee saith that in case a writ of right bee brought and the feſin of the Demaundant, or his ancestor alleaged, the feſin is not traversable by

the Defendant, but hee may tender or proferre the halfe marke for the enquiry of this seisin, which is as much to say in playner termes, that the Defendant shall not be admitted to denie, that the Demandant, or his Ancestour was seised of the Land in question, and to prove his deniall, but that hee shall be admitted to tender halfe a Marke in money, to have an enquiry made, whether the Demandant, &c. were so seised or not. And in this signification I reade the same words in the old English *natus breuum*, fol. 26. b. vix. Know yee that in a Writ of right of *Admonzon* brought by the King, the Defendant shall not proferre the halfe Marke, no Judgement finall shall be given against the King, &c. Whereof *Fitzl. vbi supra.* M. giveth the reason because in the Kings case, the Defendant shall be permitted to traverse the seisin by licence obtained of the Kings Sergeant. To this effect, See *Fitz. nat. br.* fol. 31. C.D.E.

Halfe seale, is used in the Chauncery for the sealing of Comissions unto Delegates, appointed upon any appeale in Ecclesiastical or Marine causes, *an. 8. Eliz. cap. 5.*

Halfe tongue. See *Abduction*.

Halyne, alia, Healeynet, is

a CourteBaron. *Mannord parte primus* of his Forest Lawes, pag. 211. and the Etymologie is the meeting of the Tenants of one Hall or Mannor. *M. Gains Preface to his Reading*, which for the esteeme thereof, is by copies spread into many mens hands.

Hallage, is a fee due for clothes brought for sale to *Blackwell hall* in London. *Cole*, vol. 6. fol. 62. b.

Hamlet (*Hamderum*) is a diminutive of (*Ham*) which signifieth habitationem. *Camden. Brit.* pag. 149. & 354. The French *habitation* is also deere unto it. *Kitchin hath Hamel* in the same fence, fol. 215. who also useth *bampsell* for an old houte or cottage decayed, fol. 103. *Hamlet* (as *Sion* useth it in Ed. 3.) seemeth to be the seate of a freeholder. For there he saith, that the said King bestowed two maners and nine hamlets of land upon the monastery of *Westminster*, for the keeping of yearly obits for his wife Queene Eleanor deceased.

Hamling of dogges, or *hambling of dogges*, is all one with the expeditating of dogges. *Mannord parte prim.* of his Forest lawes. pag. 212. & parte 2. cap. 14. num. 5. where hee saith, that this is the ancient terme that Foresters used for that matter; whence this word might be

bee drawne, I dare not resolve: but it is not improbable, that *bunaling* is *quasi, bimbalding*, that is, keeping at home, which is done by paring their feet so, as they cannot take any great delight in running abroad. See *Expedite.*

Hampfell. See *Hunter.*

Hamsoken, see *Homeoken*. *M.* *Skene de verb. significa.* writeth it *Hainsoken*; and deriveth it from (*Hain*) a German word, signifying a house or dwelling, and (*Suchen*) that is to seeke, search, or pursue. It is used in Scotland for the crime of him, that violently, and contrary to the Kings peace, assaulteth a man in his own house: which (as hee saith) is punishable equally with ravishing of a woman, significat *quietiam misericordie intrationis in alienam dominum vi & iniuste.* *Pleta. lib. pri. esp. 47.* See *Homeoken.*

Hand in and Hand out, anno 17. Ed. 4. esp. 2. is the name of an unlawfull game.

Handfull, is foute inches by the standard. anno 33. H. 8. ca. 5. &c.

Hankrit alias (*Hangrit*) or (*Hengrit*) commeth of the Saxon words (*Hangen*, i. pendere) and (*wit*) whereof read in *Galt-wit: Rastall* in the title, *Expositio*n of words saith, it is a liberty granted unto a man, whereby

hee is quit of a felon or theefe hanged without judgement, or escaped out of custody. I read it interpreted, *militia pro homine iniuste sustens.* Or whether it may be a liberty, whereby a Lord chalengeth the forfeiture due for him, that fordoeth himselfe within his fee or not, let the Reader consider. See *Bloodmit.*

Humper (*banperium*) *banper* of the *Chancery*, anno 12. R. 2. cap. prim. seemeth to signify as *fiscus* originally doth in Latine. See *Clerke of the Banper.*

Hinse (as *Ortelius* in the Index of his Additament to his *Traictor. verb. Antiquici.* saith.) is an old Gotthish word; where hee sheweth not the interpretation. It signifieth a certaine societie of Merchants, combined together for the good usage and safe passage of Merchandize from kingdome to kingdome. This societie was, and (in part) yet is, endued with many large privileges of Princes, respectively within their territories. It had foure principall seats, or staples: where the Almaine or Dutch Merchants being the Executors of this societie, had an especiall house, one of which was here in London, called *Gild-balds Tertonicorum*, or in our common language, the *Stelyard*. Of this you may reade more in

the place of *Ostelinus* above mentioned.

Hippe commeth of the French *happer, i. rapiō, cum quadam velo citate capio*: and the French seemeth to come from the Greeke *ἀγράπω*. It signifieth in our common law the same thing, as to hap the possession of a deed poll. *Littl. fo. 8.*

Haque, is a hand-gun of about three quarters of a yard long, *anno 33 Henr. 8, ca. 6.* & *an. 2 et 3 E. 6, ca. 14.* There is also the halfe-haque or demy haque. See *Haquebut*.

Haquebut is that piece of artillery or gun which wee otherwise call an harquebus : beeing both French words. *anno 2 & 3 Ed. 6, ca. 14. & anno 4 & 5 Phil. & Mar. ca. 2.*

Hariot, alias beriot(heriotum) in the Saxon *heregeat*, a little altered, which is drawne from *here*, i. *exercitus*. And a heriot in our Saxons time signified a tribute given to the Lord, for his better preparation toward Warre : *Lambert* in his Explication of Saxon words, *verbo Hereotum*. The name is still retained, but the use altered : for whereas by Master *Lambert*, opinion, *ubis supra*, it did signifie so much as relief doth now with us, now it is taken for the best chatell that a tenent hath at the houre of his death, due unto the Lord by cu-

stome, bee it horse, oxe, cattell or any such like, Master *Kitchin* distinguisheth betweene Heriot service and Heriot custome, *fol. 133 & 134* : For interpretation whereof, you shall finde these words in *Brooke, titulus Hariot, num. 5.* Hariot after the death of the tenent for life is Hariot custome. For Hariot service is after the death of tenent in fee simple. The new expounder of the Law *Tearmes* sayth, That Hariot service (in some mans opinion) is often expressed in a mans graunt or deed, that he holdeth by such service, to pay Hariot at the time of his death, that holdeth in fee simple. Hariot custome is, where hariots have been payd time out of mind, by Custome. And this may be after the death of the tenent for life. See *Plowden, fol. 95 b. 69, a, b.* *Bracton* sayth, that *Heriotum est quasi relevium, lib. 2, cap. 36.* See *Relieve*. But *Britton ca. 69* sayth, That *Heriot* is a reward made by the death of a tenent, to any lord, of the best beast found in the possession of the tenent deceased, or of some other, according to the ordinance or assignement of the party deceased, to the use of his Lord : which reward toucheth not the Lord at all, nor the heire, nor his inheritance, neither hath any comparison to a *Relieve* : for it proceedeth rather of grace or good-

good will then of right, and rather from villeins then free men. See Dyer fol. 199. nū. 58. to the same effect. This is Scotland is called *Herrezelda*, compounded of (*herr.* i. *dominus*, *beru*) and (*zeild* i. *gift*) *Skens da verbo*. signific. *verbo Herrezelda*.

Hart, is a Sagge of five yeares old compleat, *Munwood* parte 2. of his forest. *Lawes*, cap. 4. num. 5. which hee hath out of *Budeus de philologia* li. 2. And if the King or Queene do hunt him, and hee escape away alive, then afterward hee is called a *Hart* royall. And if the Beast by the Kings or Queenes hunting be chased out of the Forest, and so escape; Proclamation is commonly made in the places thereabout, that in regard of the pastime, that the Beast hath shewed to the King or Queen, none shall hurt him, or hinder him from returning to the Forest; and then is hee a Hart royall proclaimed. *Idem.* *et dem.*

Hauberk, commeth of the French (*Haubert* i. *lorica*, whereupon, hee that holdeth land in *France*, by finding a Coate or Shirt of Maile, and to be ready with it, when hee shall be called, is said to have, *Hauberticum feudum*; whereof *Hotoman* writeth thus: *Hauberticum feudum gallicum lingua vulgo dicitur pro (loricatum) i. datum vasallo eo conditi-*

*one, ut ad edictum loricatus sive caphractus presto sit. Nam ut lorica latinis propriè & minus usitatè est tegmen de loro factum, quo majores in bello utebantur, quem admodum Servius Honoratus scribit in libro Æneidum 11. frequentissimè autem pro ænea armatura integratur surpatur: sic apud Gallos Haubert propriè loricam annulis contextam significat, quam vulgus Cotte de maille appellat. Hac Hot. in verbis feudal. verbo *Hauberticum feudum*. Hauberk with our Auncesters seemeth to signify, as in *France*, a Shirt or Coat of Male, and so it seemeth to be used, anno 13. Ed. pri. stat. 3. ca. 6. Though in these dayes the word is otherwise written, as (*Halbert*) and signifieth a weapon well enough knowne.*

Howard, alias *Hayward*, seemeth to be compounded of two French words (*Hay*. i. *Sepes*) and *Garde*. i. *Custodia*.) It signifieth with us, one that keepeth the common Herd of the towne: and the reason may be, because one part of his office is to looke that they neither breake, nor crop the hedges of inclosed grounds. It may likewise come from the German (*herd*. i. *armentum*) and (*bewarren*. i. *custodire*.) Hee is a sworne Officer in the Lords Court: and the forme of his oath you may see in *Kitchin*, fol. 46.

Hawkers, be certaine deceitfull fellowes, that goe from place to place, buying and selling , Brasse, Pewter, and other merchandise, that ought to be uttered in open Market. The appellation seemeth to grow from their uncertaine wandring , like those that with Hawkes seeke their Game , where they can find it. You find the word, anno 25. H. 8. cap. 6. & anno 33. ejusdem. cap. quarto.

Headborow, is compounded of two words (*Heofod*. i. *caput*.) and (*Bor. he. i. pignus*) It signifieth him, that is chiefe of the frank-pledge : and him that had the principall government of them within his owne pledge. And as he was called *Headborow*, so was he also called *Buowhead*, *Bursholder*, *Thirdborow*, *Tithing man*, *Chiefepledge*, or *Borowelder*, according to the diversity of speech in divers places. Of this see *M. Lambert* in his explication of Saxon words, *verbo Centuria*: and in his treatise of Constables ; and *Smith de Repub. Anglo. lib. 2. cap. 22.* It now signifieth Constable, See *Constable*.

Healfang, is compounded of two Saxon words (*Hals. i. colum*) and (*fang. i. capere, captivare.*) See *Pylorie*.

Heire (*Hares*) though, for the word , it be borrowed of the Latine ; yet , it hath not altogether

the same signification with us , that it hath with the Civilians, for whereas they call him (*heredem*) qui ex testamento succedit in universum jus testatorii : the common Lawyers call him heire , that succeedeth by right of blood, in any mans lands or tenements in fee , for there is nothing passeth with us *jure hereditatis*, but onely fee. Moveables , or chatels immoveable, are given by testament, to whom the Testator listeth , or else are at the disposition of the Ordinarie , to be distributed as *hee* in conscience thinketh meet , *Glossa in Provinciali constituent.* *Ita quorundam, De testamentis. verbo. Ab intestato.* And whether a man enjoy moveable goods and chatels , by will, or the discretion of the Ordinarie , he is not with us called an Heire : but onely hee that succeedeth either by testament , or right of blood in fee. *Coffaneus in consuetud. Burg. pag. 909.* hath a distinction of *heres* , which in some sort well accordeth with our law : For hee saith , there is *heres sanguinis, & hereditatis*. And a man may be *heres sanguinis* with us , that is, heire apparent to his Father, or other Ancestor : and yet may upon displeasure , or meere will be defeated of his inheritance , or at the least , the greatest part thereof.

Heyre loome, seemeth to bee com-

compounded of *heire* and *loomes*, that is, a *frathe*, namely to weave in. The word by time is drawn to a more generall signification than at the first it did beare, comprehending all implements of household, as namely tables, preses, cupboards, bedsteads, wainscot, and such like, which by the custom of some Countries, having belonged to a house certain descentes, are never inventoried after the decease of the owner, as Chatels, but accrue to the heyre with the house it selfe. This word is twice metaphorically used in that Divine speech, made by that most worthy and compleat nobleman, the Earle of Northampton, against that hellish, ougly, and damnable Treason of Gunpowder, plotted to consume the most vertuous King that ever reigned in Europe, together with his gracious Queene and precious posterity, as also the three honourable Estates of this renowned Kingdome.

Huck is the name of an Engine to take fish in the river of Owlē by Yorke : anno 23 H. 8, ca. 18.

Heinfare, alias *Hinefare*, (*discessio famuli à Domino*.) The word is compounded of *Hine*, a Servant; and *Fare*, an old English word, signifying a passage.

Henchman, or *heinsman*, is a

Germane word, signifying *Domesticum, aut unum de familia*. It is used with us for one that runneth on foot, attending upon a man of honour or worship. anno 3 Edw. 4, ca. 5. anno 24 Henric. 8, ca. 13.

Hengwite, significat *quetamiam misericordie de latrone suspensa absq; consideratione*: *Fleta li. 1, ca. 47*. See *Hankwit*.

Herald (*heraldus*) is borrowed by us of the French *herault*, and in M. Verstigians judgement proceedeth originally from two Dutch words, *here*, i. *exercitus*; and *bealt*, i. *pugil magnanimus*. As if he should be called the champion of the army, having by especiall office to challenge unto battell or combat. With us it signifieth an officer at armes, whose function is to denounce Warre, to proclaime peace, or otherwise to be employed by the king in marshall messages, or other businesse. The Romanes called them plurally *Feciales*. Master Stow in his Annals deriveth them from *heroes*, pag. 12. which he hath from other that writ of that subject, whose conjecture I leave to the Reader. Their office with us is described by Polydore, lib. 19, in this fort, speaking of the Knights of the Garter, he sayth, *Habent insuper apparitores ministros, quos heraldos dicunt: quorum prefectus armorum Rex vocatur:*

tatur : his belli & pacis munici.
Decibus, Comitibusque à Rege fa-
ctis insignis aptant, ac eorum fune-
rarium. Hee might have added
further, That they bee the Jud-
ges and examiners of Gentle-
mens armes ; that they martiall
all the solemnities at the corona-
tions of Princes, manage combats,
and such like. There is also one
and the same use of them
with us, and with the French
nation, whence wee have their
name. And what their office is
with them, see *Lupanus lib. prim.*
de Magist. Francorum, ca. Hera- di. There bee divers of them
with us, whereof three beeing
the chief, are called Kings at
armes. And of them *Garter*
is the principall, instituted and
created by *Henry* the fift. *Stows*
Annals pag. 584. whose office is
to attend the Knights of the Garter
at their solemnities, and to
martiall the solemnities of the
funeralls of all the greater No-
bilitie, as of Princees, Dukes,
Marqueses, Earles, Viscounts,
and Baroas. Yet I find in *Plow- den, casu Reniger & Fagazz,* That
Edward the fourth granted the
office of king of Heralds to one
Garter, cum feudi & proficiens ab
antiquo, &c. fol. 12 b. The next is
Clarentius, ordained by *Edward*
the fourth : for he attaining the
Dukedom of Clarence, by the
death of *George* his brother, whom

he beheaded for aspiring to the
Crown, made the Herald which
properly belonged to the Duke of
Clarence, a King at armes, and
called him *Clarentius*. His pro-
per office is, to martiall and dis-
pose the funeralls of all the lesser
Nobility, as Knights and Esquires,
through the realme of the South
side of Trent. The third is *Nor- roy*, or *Northroy*, whose office is the
same on the North side of Trent,
that *Clarentius* hath on this side,
as may well appeare by his name,
signifying the Northerne King,
or King of the North parts. Be-
side these, there be six other pro-
perly called Heralds, according
to their originall, as they were cre-
ated to attend Dukes, &c. in marti-
all expeditions, viz. *Yorke*, *La-
ncaster*, *Somerset*, *Richmond*, *Ches-
ter*, *Windleson*. Lastly, there bee
four other, called Marshalls or
Pursevants at armes, reckoned af-
ter a sort in the number of He-
raulds, and doe commonly suc-
ceed in the place of the Heralds,
as they die or bee preferred : and
those be *Blew*, *Mantle*, *Rangecrosse*,
Rougedragon, and *Percutia*. The
Feciales among the Romans were
Priests, Nam Nama Pompilius
divini cultus institutionem in octo
partes divisit, & ita etiam sacer-
dotum &c. ordines constituit, &c.
Septimam partem sacre constitu-
tio-
nis collegio eorum adjectit, qui Fe-
ciales vocantur. Erant autem ex
optimis

optimis domibus viri electi, per omne ipsi via tempus sacrati, quorum partes in eo versabuntur, ut fidei publicae inter populos praesent : neque iustum aliquid bellum fore censetur : nisi id per Feciales esset indictum. Qui ut Festus ait, à faciendo quodam belli pacisque faciende apud eos jus esset. Feciales dicti sunt. Gorasius Mischel juris civilis. l.c. 10. num. 12.

Herbage (herbagium) is a French word, and signifieth in our common Law, the fruit of the earth provided by nature for the bitte or mouth of the cartell. But it is most commonly used for a liberty that a man hath to feed his cartell in another mans ground, as in the forest, &c. Cromptons Jurisdict. fol. 19.

*Herbenger, commeth of the French *heberger*, or *esberger*, *besberger*, i. *hospitio excipere*. It signifieth with us, an Officer of the Princes Court, that allotteth the Noblemen and those of the houshold their Lodgings. It signifieth also in *Kitchin*, an Inkeeper, fol. 176.*

Hereditaments (hereditamenta) seeme to signifie all such things immoveable, be they corporeall or incorporeall, as a man may have to himselfe and his heires by way of inheritance. Vide anno 32 Henr. 8. cap. 2. or not beeing otherwise bequeathed, doe naturally and of course descend to

him which is our next heire of bloud, and fal not within the compasse of an executor or administrator, as chatels do.

Heriot, see Hariot.

*Hide of land (hida terra) Saxonice *hidelandes*, is a certaine measure or quantitie of land, by some mens opinion, that may bee plowed with one plow in a year, as the author of the new Terms sayth, *verbo Hidage*. By other men it is an hundred acres. By *Beda* (who calleth it *Familiam*) it is as much as will maintaine a family. *Crompton* in his Jurisdiction, fol. 20, sayth, that it consisteth of an hundred acres, every acre in length forty perches, and in bredth fourc perches, every perch sixteene foot and a halfe. And againe fol. 222, A hide of land containeth an hundred acres, and eight hides, or eight hundred acres containe a Knights fee. Of this reade more in Master *Lamberts Explication* of Saxon words, *verba Hida terra*. See *Carve*.*

*Hide and gaine, Old nat. Brev. fo. 71. Coke lib. 4, *Tirringhams case*, signifieth earable land. See *Gaine*.*

*Hidage (hidagium) is an extraordinary taxe to be payd for every hide of land. Bracton lib. 2, c. 6, writeth thus of it: *Sunt etiam quadam commune: prestationes, que servitia non dicuntur, nec de consue-**

tudine veniunt nisi cum necessitate intervenierit, vel cum Rex venerit; sicut sunt Hidzgia, Coragia, & Caravagia: et alia plura de necessitate & ex consensu communis totius regni introducti, & que ad Dominum suum non pertinent, &c. Of this reade the new Expounder of Law Tearmes, who sayth that Hidage is to bee quit, if the King shall taxe all the lands by hides, and yet also grauneth it to bee the taxe it selfe, saying that it was woot to bee an usual kind of taxing, as well for provision of armour, as payments of money.

Hinesure, see Heinfare.

Hidel, i H. 7, ca. 6, seemeth to signify a place of protection, as a sanctuary.

Hierlome, see Heirlome.

Hine, seemeth to be used for a Servant at husbandry, and the master hine a servant that overseeth the rest. anno 12 Rich. 2. cap. quarto.

Hoblers (hobellarii) are certain men that by their tenure are tyed to maintaine a little light Nagge, for the certifying of any invasion made by enemies, or such like perill toward the sea fide, as Porchmouth, &c. Of these you shall reade, anno 18 Edward. 3, stat. 2, ca. 7. & anno 25 ejusd. stat. 5, ca. 8.

Hogbenbigne, is hee that commeth guestwise to an house, and

lieth there the third night. After which time he is accounted of his family in whose house hee lieth: and if he offend the kings peace his host must bee answerable for him. Bracton lib. 3, tract. 2, ca. 10. In the Lawes of King Edward set forth by Master Lambert, he is called *Agebigne*: where you may reade more of this matter.

Hithe (hitba) is a petit haven to land wares out of vessels or boats: New booke of Entries, fol. 3, column. 3.

Hoggshead, is a measure of wine or oyle containing the fourth part of a tun, that is 63 gallons, an. 1 R. 3, ca. 13.

Hoistings, see Hustings.

*Homage (Homagium) is a French word, signifying *Fidem clientilarem.*) For in the originall grants of land and tenements by way of fee, the Lord did not onely tye his tenents or feed men to certaine services, but also tooke a submission, with Promise and oath, to be true and loyall to him, as their Lord and Benefactor. This submission was and is called homage: the forme whereof you have in the second statute, anno 17 Edw. 2. in these words: when a free man shall doe homage to his Lord, of whom hee holdeth in chiefe, he shall hold his hands together betweene the hands of his Lord, and shall say,*

say thus : I become your man from this day forth for life , for member , and for wotldly honour , and shall owe you my faith for the land I hold of you : saving the faith , that I do owe unto our Sovereigne Lord the King , and to mine other Lords . And in this manner the Lord of the fee , for which homage is due , taketh homage of every tenent , as he commeth to the land or fee . *Glanvile lib. 9. cap. 1.* except they bee women , who performe not homage but by their husbands , (yet see *Fitzherbert* , that saith the contrary in his *natura. br.* fol. 157. F.) Reade *Glanvile* more at large in the said first Chapter , with the second , third and fourth ; The reason of this *M. Skene* giveth *de verbo significatione* , verbo *Homagium* , viz. because Homage especially concerneth service in warre . Hee saith also , that consecrated Bishops , do no homage , but only fidelity : the reason may bee all one . And yet I find it in the *Register. orig.* fol. 296. a. that a woman taking livery of lands holden by knights service , must do homage , but not being joynly infeooffed , for then shee doth only fealty . And see *Glanvile* in the end of the first chapter of his ninth booke touching Bishops consecrated , whom hee denieth to performe homage to the King for their Baronie , but

onely fealty . *Fulbeck* reconcileth this , fol. 20. a. in these words . By our law a religious man may doe homage , but may not say to his Lord . *Ego devenio homo vester* , because hee hath professed himselfe to bee onely Gods man , but hee may say , I do unto you homage , and to you shall bee faithfull and loyall . See of this *Britton cap. 68.* *Homage* , is either new with the fee , or ancestrall : that is , where a man and his Ancestors , time out of mind , have held their lands by homage to their Lord , whereby the Lord is tied to warrant the land unto his tenent . *New termes of the Law.* This homage is used in other Countries as well as ours , & was wont to bee called *Hominium* . See *Hotom. de verbis feudatis* , verbo . *Homo. Skene* divideth it into *liegium & non liegium* , *de verb. signif. verbo Homage* : for the which see *Leige* , and *Hotomani* , *disputatione de feudis tertia* . *Homage* is sometime used for the jurie in the *Court Baron* , *Smith de Repub. Anglo. lib. 2, cap. 27.* The reason is , because it confisteth most commonly of such , as owe homage unto the Lord of the fee . And these of the Feudists are called *pares curiae, servi curiis, servi domus sic dicuntur omnini convassalli* , *servi comparates, qui ab eodem patrone feudum receperunt, vel qui in eodem territorio feudum ba-*

baberit. *Hotoman.* Of this Homage you may reade in the nine and twentieth chapter of the grand Custumary of Normandy, where you shall understand of other sorts of homage, used by them, and strange unto us. Whereunto join *Hotoman, disputat. de feudis,* in divers places, and namely *Columna 860 c, bis verbis : Deinceps de nota hominii & feudalitie subjectionis videamus.* *Omnium quidem video esse commune, ut dexterar tanquam in foederibus jungerent : plerumque etiam ut dexteris adversis, osculum preberent, interdum ut ambas manus junctas patrono contrectandas preberent : supplicum & deditiorum nomine, qui velatas manus porrigebant.* And pa. 861, *bis verbis : Multis Gallicia atque etiam Anglia moribus constitutum est (Quod ex Anglico Littletono intellectimus) ut hominism servili & supplici veneratione, ac planè tanquam à dedititioni priestetur.* *Nam vasallus discinctus, nudo capite, ad pedes sedentis patroni projectus, ambas manus junctas porrigit : quis dum Dominus suis manibus amplectitur, hec verba pronunciat : Here, venio in tuum hominum & fidem, & homo tuus si ore & manibus ; tibique juro ac spondeo fidelis me tibi futurum eorum fendorum nomine, que tuo beneficio accepi, &c.* Whereunto you may adde him, *colom, 819g. 822f. et 857, b & d, & f.* Of homage in Scotland,

reade *M. Skene de verb. signif. verbo Homagium.* To whom you may also joyn a plentifull discourse in *speculo Durandi, commonly called speculator among the Civilians, tit. Defendis.*

Homagio respectuando, is a writ to the escheator, commanding him to deliver seisin of lands to the heire that is at full age, notwithstanding his homage not done : which ought to be performed before the heire have livery of his lands, except there fall out some reasonable cause to hinder it. *Fitz. nat. br. fo. 269.*

Homine eligendo ad custodiendam peciam sigilli pro mercatoribus editi, is a writ directed to a Corporation, for the choice of a new man to keepe the one part of the Seale, appointed for Statutes Merchant, when the other is dead, according to the Statute of *Action Burnel, Regist. original, fol. 178 a.*

Homine replegiando, is a writ for the bayle of a man out of prison : which in what cases it lieth, and what not, see *Fitzb. natura brev. fo. 66.* See also the *Register origin. fo. 77.* See the new booke of Entries, verbo, *Homine replegiando.*

Homine capto in Withernamium, is a writ to take him that hath taken any bondman or woman, and led him or her out of the County, so that hec or she cannot

not to be replevied according to Law. Reg. orig. fo. 79, a. See *Wither-*
nam.

Homicide (*homicidium*) is the slaying of a man: and it is divided into voluntary and casual: homicide voluntary is that which is deliberated and committed of a set minde and purpose to kill: Homicide voluntary is either with precedent malice, or without. The former is murder, and is the felonious killing through malice pre-sensed, of any person living in this Realme under the Kings protection, *West parte 2, Symbol. tit. Indis-*
ments, Sect. 37, &c. usque ad 51. where you may see divers subdivisions of this matter. See also *Glan-*
vile, li. 14, cap. 3. Bract. li. 3, tract.
25, 64, 43, 15 & 17. Brit. ca. 5, 6, 7. See
Murder, Manslaughter, & Chance-
medy.

Homesoken, alias *hamsoken*. Ham-
soca is compounded of *Ham*, i.
habitatio, and *soken*, i. *quarere*. It
is by *Braeton*, lib. 3, tract. 2, cap. 23, thus defined: *Homesoken dicitur invasio domus contra pacem Domini Regis.* It appeareth by *Rat-*
stall in the title, *Exposition of words*, that in ancient times some men had an immunity to doe this: for he defineth *Homesoken* to bee an immunity from amercement from entring into houses violently, and without license: which thing seemeth so unreasonable, that mee thinketh

he should be deceived in that his exposition. I would rather think, it should bee a liberty or power granted by the King to some common person, for the cognisance or punishment of such a transgression: for so I have seene it interpreted, in an old note that I have given mee by a friend, which hee had of an expert man toward the Exchequer, but of what authority I know not. See *Ham-*
soken.

Hondhabend, is compounded of two Saxon words (*bond*, id est hand, and *habend*, i. having) and signifieth a circumstance of manifest theft, when one is deprehended with the thing stollen, in his hand, *Bract. lib. 3. tractat. 2:*
cap. 31 & 54. who also use the *handberend*: for the same, *todem,*
cap. 8.

Honour (*honor*) is, beside the generall signification, used especially for the more noble sort of Seigniories, whereof other inferiour Lordships or Mannours do depend, by performance of customes and services, some or other, to those that are Lords of them. And I have reason to thinke, that none are Honours originally, but such as are belonging to the King. Howbeit they may afterward bee bestowed in fee upon other Nobles. The maner of creating these Honours may in part bee gathered out of the statutes,

an. 34 Hen. 8, ca. 5. where Hampton Court is made an Honour : and *anno 33 ejusdem, ca. 37 et 38,* whereby Amptill and Grafton bee likewise made Honours : and *anno 37 ejusdem, cap. 18.* whereby the King hath power given by his Letters patent, to erect foure severall Honours, of Westminster, of Kingston upon Hull, Saint Osithes in Essex, and Dodington in Barkshire. This word is also used in the selfe same signification in other nations. See *ca. licet causam, extra de probationibus,* and *M. n'singer* upon it, *nn. 4.* In reading I have observed thus many Honours in England : The Honour of Aquila, *Cambdens Britan.* *p. 231.* of Clare, *p. 351.* of Lancaster, *p. 581.* of Tickhil, *p. 531.* of Wallingford, Nottingham, Boloine, *Magna Charta, ca. 31.* of West Greenewish, *Cambden, pag. 239.* of Bedford, *Pupil oculi, parte 5, ca. 22.* of Barthimsted, *Brook titule Tecture, num. 16.* of Hwittam, *Cambden p. 333.* of Plimpton, *Cromptons Juridict. fo. 115.* Of Crevecure, and Hagenet Fobert, *anno 32 Hen. 8, cap. 42.* of East Greenewish, of Wintfor in Barkshire, and of Bealew in Essex, *ann. 37 H. 8, ca. 8.* of Peverell in the County of Lincolne, *Regist. origin. fo. 1.*

Horn geld is compounded of Horn and *Gildan* or *Gelder*, i. Solvere. It signifieth a taxe within

the forest to bee payd for horned beasts, *Cromptons Juridict. fo. 197.* And to bee free therof, is a priviledge granted by the King unto such as he thinketh good, *Idem, ibidem;* and Rastill, in his Exposition of words.

Hors de son fee, is an exception to avoyd an action brought for rent, issuing out of certaine land, by him that pretendeth to bee the Lord, or for some customs and services : for if he can justifie that the land is without the compasse of his fee, the action falleth. *v. Brook hoc titub.*

Hospitallers (*Hospitalarii*) were certaine Knights of an Order, so called because they had the care of hospitals, wherein Pilgrimes were received. To these Pope Clement the fifth transferred the Templers, which Order, by a Council held at Vienna in France, he suppressed, for their many and great offences, as hee pretended. These Hospitalers bee now the Knights of Saint John of Malta, *Cassan Gloria mundi, part. 9, considerat. 5.* This constitution was also obeyed in Edward the seconds time here in England, and confirmed by parliament. *Thom. Walsingham in hist. Ed. 2. Stowes Annals, ibidem.* These are mentioned, *an. 13 Ed. 1, ca. 43. & an. 9 H. 3, ca. 37.*

Hostelers (*Hostellarium*) commeth of the French (*Hasteler*, i. *Hospes*) and signifieth with us, those that otherwise wee call Inkeepers, *an 9. Ed. 3. Stat. 2. c. 11.*

Hotchepot (*in partem positio*) is a word that commeth out of the Low-countries, where (*Hutspot*) signifieth flesh cut into pretty pieces, and sodden with herbes or roots, not unlike that which the Romanes called *farraginem*. *Festus Littleton* saith that literally it signifieth a pudding mixed of divers ingredients: but metaphorically a commixtion, or putting together of lands, for the equall division of them being so put together. Examples you have divers in him, *fol. 55.* and see *Britton*, *fol. 119.* There is in the Civill law *Collatio bonorum* answerable unto it, whereby if a childe advanced by the father in his life time, doe after his fathers decease, chalenge a childs part with the rest, hee must cast in all that formerly hee had received, and then take out an equall share with the others. *Decollatio bonorum*. *π. lib. 37. titulus 6.*

Hausebote, is compounded of *House*, and *Bote*, i. *compensatio*. It signifieth Estovers out of the Lords wood to uphold a tenement or house.

Houserobbing, is the robbing of a man in some part of his house, or his booth, or tent in any faire

or market, and the owner, or his wife, children, or servants being within the same: for this is felony by *ann. 23. H.8. c. 1.* and *ann. 3. Ed. 6. c. 9.* yea, now it is felony though none be within the houle, *an. 39. Eliz. c. 15.* See *Burglary*. See *West. part. 2. sym. tit. Iudicemens, sect. 67.*

Hudegeld, significat *quietam transgressionis illata in servum transgredientem*. *Fleta li. 1. cap. 47.* Quere whether it should not be *Hindegeld*.

Hue and *Crie* (*Hutesum & Clamor*) come of two French words (*Huier*) and (*Crier*) both signifying to shout or crie aloud. *M. Marwood*, *parte 2.* of his *Forest lawes*, *cap. 19. num. 11.* saith, that *Hew* is Latine, meaning belike the *Interjection*: but under reformation, I thinke hee is deceived; this signifieth a pursuite of one having committed felonie by the high way, for if the partie robbed, or any in the company of one murdered or robbed, come to the Constable of the next towne, and will him to raise *Hiew* and *Crie*, or to make pursuite after the offendour, describing the partie, and shewing as neere as he can, which way hee is gone: the Constable ought forthwith to call upon the Parish for ayde in seeking the felon: and if hee bee not found there, then to give the next Constable

warning; and hee the next, untill the offendour bee apprehended, or at the least, untill hee be thus pursued to the Sea side. Of this reade *Braetom*, lib. 3. tract. 2. cap. 5. *Smith de Repub. Anglo.* lib. 2. cap. 20. and the statute, anno 13. Ed. 1. statute of *Winchest.* c. 3. & a. 28. Ed. 3. c. 11. & anno 27. El. c. 13. The Normanes had such a pursuit with a Crie after offenders as this is, which they called *Ha-ro:* whereof you may reade the *Grand Customarie*, cap. 54. Some call it *Harol:* the reason whereof they give to be this, that there was a *Duke of Normandy*, called *Rol,* a man of great justice and severity against grievous offenders: and that thereupon, when they fellow any in this pursuit, they cry *Ha-Rol*, as if they should say, *Ab Rol where art thou that wert wont to redresse this, or what wouldest thou doe against these wretches, if thou now wert living?* But in truth I thinke it commeth from Harier. i. *flagitare, inquietare, urgere.* Hue is used alone, anno 4. Ed. pri. stat. 2. This the Scots call *Huesum*: and *M. Skene de verb. signif. verb.* *Huesum*, saith, that it commeth of the French *Oyes.* i. *Audite:* making one etymologie of this and the crie used before a Proclamation. The manner of their Hue and crie, as he there describeth it, is that if a robbery be done, a horne

is blowne, and an out-crie made: after which, if the partie flie away, and not yeeld himselfe to the Kings *Bailiffe*, hee may be lawfully slaine, and hanged up upon the next gallowes. Of this Hue and crie, see *Cromptons Justice of peace*, fol. 160. b.

Huiuers. See *Ushers.*

Hundred (*Hundredum*) is a part of a Shire, so called originally, because it contained ten tithings called in Latine *Decennas:* These were first ordained by King *Alfred the 29. King of the West Saxons.* *Stows annals*, pag. 103, of these thus speaketh *M. Lamb.* in his explic. of Saxon words, verbo. *Centuria: Aluredus rex, ubi cum Gutbruno Daco foedus inierat, prudenterissimum illud olim. à Ietrone Moysi datum securus consilium, Angliam primus in satrapias, Centurias, & Decurias, parvius est. Satrapiam, sibire à shyran (quod partiri significat) nominavit: Centuriam, Hundred: & Decuriam, Tothing sive *Tiemantak.* i. *Decemvirale collegium appellavit: atq; iisdem non minibus vel bodie vocantur, &c.* And againe afterward: *Decrevit sum porro Aluredus libera ut conditionis quaque in Centuriam ascriberetur aliquam, atq; in Decemvirale aliquod coiiceretur collegium. De minoribus negotiis Decuriones ut judicarent: ac si quae esset res difficultior, ad Centuriam deferrent: difficilimis denique & maximi membris lites,**

lites, Senator & prepositus in frequenti illo ex omni satrapia convenitu componerent. Modus autem judicandi quis fuerit, Ethelredus Rex, legum, quas frequenti apud Vantingum senatu sancivit, capite 4. his fere verbis expouit. In singulis centuriis comitia sunt, atque libere condicione viri duodenisi, etate superiores, una cum preposito, saora tenentes juranto, se adeo virum aliquem innocentem haud damnaturos sententiae absoluturos. This forme of dividing Counties into Hundreds for better Government, howsoever it is attributed to King Alfred here with us: yet hee had it from Germanie, whence hee and his came hither. For there *Centa* or *Centena* is a jurisdiction over a hundred towns, and containeth the punishment of Capitall crimes. *Andreas Kitchin, in his tractat, de sublimi & regio territorii jure. cap. 4. pag. 123.* where hee also sheweth out of *Tacitus, de situ & moribus Germ.* that this division was usuall amongst the Germans before his dayes. By this you understand the originall and old use of Hundreds, which hold still in name, and remaine in some sort of combination, for their severall services in divers respects, but their jurisdiction is abolished, and growne to the County Court, some few excepted, which have beeene by pri-

viledge annexed to the Crowne, or granted unto soime great subiect, and so remaine still in the nature of a Franchise. And this hath beeene ever sithence the statute anno 14. Ed. 3. stat. 1. cap. 9. whereby these Hundred Courts formerly ferm'd out by the Sheriffe to other men, were reduced all, or the most part, to the County Court, and so have and doe remaine at this present. So that where you reade now of any Hundred Courts, you must know, that they be severall franchises, wherein the Sheriffe hath not to deale by his ordinary authoritie, except they of the Hundred refuse to doe their office. See *West. parte 1. symbol. lib. 2. Sect. 288.* See *Turn.* The new expounder of Law termes saith, that the Latine *Hundredum* is sometime used for an immunitie or priviledge, whereby a man is quit of money or customes due to the Goverour, or Hundredders.

Hundreders (Hundredarii) be men empaneled, or fit to bee empaneled of a Jurie upon any Controversie, dwelling within the Hundred where the land lieth, which is in question, *Comp-tonis Jurisd. fol. 217. & anno 35. Henrici 8. ca. 6.* It signifieth also him that hath the jurisdiction of a Hundred, and holdeth the Hundred Court, *anno 13. Ed. pri-*

ca. 38. an. 9. Ed. 2. stat. 2. & *an. 2.*
Ed. 3. ca. 4. and sometime is used
 for the Baliffe of an hundred. *Horn*
in his mirror of Justices. lib. 1. ca.
de office del coroner.

Hundred *laghe*, signifieth the
 Hundred Court, from the which
 all the officers of the Kings Forest
 were freed by the Charter of
Cannus, ca. 9. Manwood, parte 1.
paz. 2.

Huors. See *Condars.*

Huseans, commeth of the
 French (*houseaux. i. ocrea*) a boote.
 It is used in the Statute *an. 4. Ed. 4.*
cap. 7.

Hustings (*Hustingum*) may
 seeme to come from the French
 (*Hausler. i. tollere, attollere, suberi-*
gere) for it signifieth the princi-
 pall and highest Court in London,
anno 11. H. 7. cap. 21. & *Fitz. nat.*
br. fol. 23. See *anno 9. Ed. pri. cap.*
unico. Other Cities and Townes
 also have had a Court of the
 same name, as *Winchester, Lin-*
colue, Yorke, and Sheppey, and o-
 thers, where the Barrons or Citi-
 zens have a Record of such
 things as are determinable be-
 fore them. *Fleta, libro 2. cap.*
55.

Husfastene, is hee that houldeth
 house and land, *Braet. li. 3. tra. 2.*
ca. 10. His words be these: *Et in*
franco plegio esse debet omnis, qui ter-
ram tenet & domum, qui dicuntur
Husfastene, & etiam alii qui illis de-
serviunt, qui dicuntur Folgheres, &c.

J *A rock, an. 1. R. 3. ca. 8.* is a kind
 of cork so called.

Identitate nominis, is a writ that
 lyeth for him who is upon a *Ca-*
pia or Exigent, taken and com-
 mitted to prison for another man
 of the same name: whereof see the
 forme and farther use, in *Fitz. nat.*
br. fol. 267. See the *Regist. original,*
fol. 194.

Idiot, and hee that afterward
 becommeth of insane memory, dif-
 fereth in divers cases, *Coke, fol. 154.*
b. lib. 4. See here following *Idiota*
inquirenda.

Idiota inquirenda vel exami-
nanda, is a writ that is directed to
 the Excheatour or the Sheriffe of
 any County, where the King hath
 understanding that there is an
Idiot, naturally borne so weake
 of understanding, that hee cannot
 governe or manage his inheri-
 tance, to call before him the par-
 ty suspected of Idiocie, and ex-
 mine him: And also to inquire by
 the oathes of 12. men whether he
 be sufficiently witted to dispose
 of his owne lands with discretion
 or not, and to certifie accord-
 ingly into the Chancerie: For the
 King hath the protection of his
 Subjects, and by his prerogative
 the government of their lands
 and substance, that are naturally
 defe-

defective in their owne discretion : *statut. de prerogativa Regis editum, anno 17. Ed. 2. cap. 8.* whereof reade *Statu[n]t. prarog. ca. 9.* and of this writ, reade *Fitz. nat. br. fol. 232.* See the *Regist. origin. fol. 267.*

Inquest. See *Flotzon.* *11 H. A. 2.*

Jeofails, is compounded of three French words, *I ay failla.* i.e. *ego ipsis sum*: and signifieth in our common law, an over-sight in pleading, touching the which you have a statute, *anno 32. H. 8. ca. 30.* whereby it is enacted, that if the Jurie have once passed upon the issue, though afterward there be found a *Jeofail* in the pleading, yet judgement shall likewise be given according to the verdict of the Jurie. See *Brooke, tit. Repledger.* The author of the new Termes of law saith, that a *Jeofail* is when the parties to any Sute, have in pleading proceeded so farre, that they have joyned issue, which shall be tryed, or is tried by a Iury, or inquest: and this pleading or issue is so badly pleaded or joyned, that it will be errour if they proceed. Then some of the said parties may by their Councell shew it to the Court, as well after verdict given, and before judgement, as before the Iury be charged: the shewing of which defects before the Iury charged, was often when the Iury came into the Court to trie the issue,

then the Councell which will shew it, shall say: This inquest you ought not to take: and if it be after verdict, then hee may say: To Judgement you ought not to goe: and because of this many delayes grew in Sutes, divers statutes are made to redresse them: viz. *32. H. 8. ca. 30.* and others in *Q. Elizabeths dayes*, and yet the fault little amended.

Ignoramus, is a word properly used by the grand Enquest empaneled in the inquisition of causes criminall and publicke: and written upon the Bill, whereby any crime is offered to their consideration; when as they mislike their evidence, as defective, or too weake to make good the presentment. The effect of which word so written is, that all farther inquiry upon that party for that fault, is thereby stopped, and hee delivered without farther answere. It hath a resemblance with that custome of the ancient Romanes: where the Judges, when they absolved a person accused, did write *A.* upon a little table provided for that purpose. i. *Absolvimus*: if they judged him guilty, they writ *C. id est. Condemnamus*: if they found the cause difficult and doubtfull, they writ *N. L. id est. Non liquet. Ascovius Pedianus in oratio pro Milone. Alexander ab Alexandro. Genial. dierum. lib. 3. cap. 14.*

Ikenild street, is one of the four famous wayes that the Romanes made in England, taking the beginning *ab Ikenis*, which were they that inhabited Northf. Southf. and Cambridge-shire, Cam. Britan. fol. 343. See *Watling-street*.

Imparlace (*interlocutio vel interloquela*) is a petition made in Court upon the Count of the Demandant by the Tenant, or Declaration of the Plaintiff, by the Defendant, whereby hee craveth respite, or any other day to put in his answere. See *Brooke, tunclo Continuance*. See *Dies Datus*: Imparlace seemeth to be generall or speciall: speciall imparlace is with this clause, *Salvis omnibus advantagis tam ad jurisdictionem curie, quam breve & narrationem*. Kitchin, fol. 200. Then generall in reason must be that, which is made at large without inserting that or the like clause. See *Emperiance*.

Impeachment of waste (*impeditio vasti*) commeth of the French (*empeschement*. i. *impedimentum*) and signifieth with us, a restraint from committing of waste upon lands or tenements. See *Waste*.

Implements, commeth of the French (*employer*. i. *insunere in re aliqua*) it signifieth with us, things tending to the necessary use of any Trade, or furniture of household.

Impost, is a French word signi-

fying *tribute*, comming of the verb (*imposer*. i. *injungere, irrigare*) It signifieth with us, the taxe received by the Prince for such Merchandise, as are brought into any Haven from other Nations, anno 31. Elizabeth, cap. 5. And I thinke it may in some sort be distinguished from custome, because custome is rather that profit, which the Prince maketh of wares shipped out of the land: yet they may bee confounded.

Improvement. See *Approve*.
In casu consimili, is a writ. See *Casu consimili*.

In casu proviso, is a writ. See *Casu proviso*.

Incident (*incidentis*) signifieth a thing necessarily depending upon another as more principall: For example, a *Court Baron* is so incident to a Manor, and a Court of *Piepowders* to a Faire, that they cannot be severed by grant: for if a Manor or Faire be granted, these Courts cannot be reserved, Kitchin, fol. 36.

Incroche (*incrociarie*) See *Encrochments*. Admirals, and their Deputies doe incroache to themselves Jurisdictions, &c. ann. 15. R. 2. cap. 3.

Indenture (*indentura*) is a writing comprising some contract betweene two, and being indented in the toppe answerably to another, that likewise

con-

containeth the same contracts : this the Latines called *o'meupor*, or *o'meepor*, which among the Civilians, is defined to bee *scriptura inter creditorem & debitorem indentata*, in cuius scissura literis capitalibus hoc dictio *o'meepor*. or plurally in *o'meepor* scribitur. and it differeth from *rechyspaper*, quia hoc manu minus tantum, puta debitoris scribitur, & penes debitorem relinquitur, pruine, constitutus, de officiis id est. cap. pri: verba In scriptis. id. Gotbofr. in notis adl. 27. §.3. n. ad leg. Corn. de falso.

Indicavit, is a Writ or Prohibition that lyeth for a patron of a Church, whose Clerke is defendant in court Christian, in an action of Tithes commenced by another Clerke, and extending to the fourth part of the Church, or of the Tithes belonging unto it ; for in this case, the suite belongeth to the Kings Court, by the Statute, West. 2. cap. 5. wherefore the Patron of the Defendant, being like to be prejudiced in his Church and Advowzen, if the Plaintiff obtaigne in the court Christian, hath this meanes to remoove it to the Kings Court ; the Register originall, fol. 35. b. See Old nat. br. fol. 31. and the Regist. fol. 35. and Briton. cap. 109. fol. 280. A.

Indictment (*indictamentum*) see *Indightment*.

Indivisum, is used in the com-

mon Lawe, for that which two hold in common without partition. Kitchin fol. 241. in these words : hee holdeth *pro indiviso*, &c.

Indorsement (*indorsamen:um*) signifieth in the common law, a condition written upon the other side of an Obligation, West. parte 2. symbol. Sect. 157.

Infang, alias *infeng*, significat quietaniam prioris pise ratione convivii, Etet. lib. 1. cap. 47.

Infangthef, or *Kingfangthef*, or *Infangthefos*, is compounded of 3. Saxon words : the preposition (*In*) (*fang* or *fong*) to take or catch) and (*thef*) it signifieth a privileged or libertie granted unto Lords of certain Maners, to judge any thiefe taken within their fee. Bracton, lib. 3. tract. 2. cap. 8. In the lawes of King Edward, set out by M. Lamberd, num. 26. you have it thus described : *Infangthef*, *Iustitia cognoscens latronis suae est, de homine suo, si captus fuerit super terram suam : Illi vero qui non habent has consuetudines, coram iusticia regia rectum faciant in Hundredis, vel in Wapentachis vel in Sciris :* The definition of this fee also in Britton, fol. 90. b. and Roger Hoveden, parte poster. suorum annalium. fol. 345. b. & M. Skene de verborum significat. verbo *Infangthef*, who writeth of it at large, reciting diversitie of opinions touching this and out-

outfangtbiese: Fleta saith that (in-fangtheef) for so hee writeth it, dicitur latro captus in terra aliquam seipsum aliquo Latrocino de suis propriis hominibus. lib. I. cap. 47. §. Infangtheefe.

Information. See Enditement: See the New booke of Law. lib. II. cap. 10.

Informer (informator) in french (informateur) is an officer belonging to the Exchequer or Kings Bench, that denounceth or complaineth of those that offend against any penall statute. They are otherwise called promotors, but the men being bashfull of nature, doe blush at this name: these among the Civilians are called delatores.

Informatus non sum, is a formal answeare of course made by an Attorney, that is commanded by the Court to say what hee thinketh good in the defence of his Client, by the which hee is deemed to leave his Client undefended, and so judgement passeth for the adverse partie. See the new booke of Enteries. titulo. Non sum informatus. and Judgement 12.

*Ingressus, is a Writ of Enterie, that is, whereby a man seeketh entry into Lands or Tenements; it lyeth in many divers cases wherein it hath as many diversities of formes. See Entry. This Writ is also called in the particular, *principale quod reddit*: because those be*

formall words in all Writs of entry. The Writs as they lye in divers cases, are these described in the Old natura brev. *Ingressus ad terminum qui praeerit*, fol. 121. *Origen. Regist. fol. 227.* which lyeth where the Lands or Tenements are let to a man for terme of yeares, and the Tenant houldeth over his terme: *Ingressus dum non fuit compas mentis*, fol. 223. *original. Regist. fol. 218.* which lyeth where a man selleth Land or Tenement when hee is out of his wits, &c. *Ingressus dum fuit infra etatem*, fol. 123. *Register originall, fol. 228.* which lyeth where one under age selleth his Lands, &c. *Ingressus super disseisina in le quibus* fol. 125. *Register. origen. fol. 229.* which lyeth where a man is disseised and dyeth, for his heire against the disseisor. *Ingressus in per* fol. 126. *origin. regist. fol. 229.* *Ingressus sic cui in vita*. fol. 128. *originall Register. fol. 239.* both which see in *Entry*: *Ingressus causa matrimonii prelocuti*. fol. 130. *original. register. fol. 233.* which see *causa matrimonii prelocuti*. *Ingressus in casu proviso*. fol. 132. *Regist. origin. fol. 235.* which see *casu proviso*. *Ingressus cui ante divorcium*. fol. 130. *original. register. fol. 233.* for which see, *cui ante divorcium*. *Ingressus in consimili casu*, fol. 233. *original. Register. fol. 236.* for which see *Consimili casu*, *Ingressus sine consensu capituli*, fol. 128. *original*

ginal register, fol. 230. for which see *Sunt affixae capituli. Ingressus ad communem legem.* fol. 132. original register, fol. 234. which lyeth, where the Tenent for terme of life, or of another's life, Tenant by curtesie, or Tenant in Dower maketh a feofment in fee, and dyeth; he in the reversion shall have the foresaid writ against whomsoever that is in the land, after such feofment made.

Ingressus of a fine, is making the Indentures by the Chirographer, and the delivery of them to the party unto whom the cognisance is made, *Fitzb. nat. br.* fol. 147. A.

Ingrosser (*ingrossator*) commeth of the French *Grosseur*. i. *craffende*, or *Groser*. i. *Solidarius venditor*. It signifieth in the common law, one that buyeth come growing, or dead victuall, to sell again, except Barly for Mault, Oats for Oatmeale, or victuals to retaile, badging by licence, and buying of oyles, spices, and victuals, other then fish or salt, anno 5. *Edw.* 6. cap. 14. anno 5. *Elizab.* cap. 14. anno 13. *Elizab.* cap. 25. these be *M. West's* words, *parte 2. symbol. titulus Inditentis. §. 7. 64.* Howbeit, this definition rather doth belong to unlawfull ingrossing, then to the word in generall. See *Forstaller*.

Inheritance (*hereditas*) is a perpetuitie in lands or tenements to

a man and his heires. For *Liskton* c. 1. li. 1. hath these words: and it is to be understood, that this word (*inheritance*) is not onely understood, where a man hath inheritance of Lands and Tenements by descent of heritage, but also every fee simple, or fee taille that a man hath by his purchase, may be said inheritance: for that, that his heires may inherit him: Several inheritance is that, which two or more hold severally, as if two men have land given them, to them and the heires of their two bodies, these have joyned estate during their lives, but their heires have severall inheritance, *Kitchin*, fol. 155. See the new Termes of law, *verbo* *Inheritance*.

Inhibition (*Inhibitio*) is a writ to inhibit or forbid a Judge from farther proceeding in the cause depending before him. See *Fitzb. nat. br.* fol. 39. where he putteth prohibition and inhibition together: inhibition is most commonly a writ issuing out of a higher Court Christian to a lower and inferiour, upon an Appeal, anno 24. *H. 8. cap. 12.* and prohibition out of the Kings Court to a Court Christian, or to an inferiour Temporall Court.

Injunction (*injunction*) is an interlocutory decree out of the Chancery, sometimes to give possession unto the Plaintiff, for want

of appearance in the Defendant, sometime to the Kings ordinary Court, and sometimeto the Court Christian, to stay proceeding in a cause upon suggestion made, that the rigour of the law, if it take place is against equitie and conscience in that case. See *West. parte 2. symb. titulo Proceeding in Chancerie. Sectt. 25.*

Inlawgh (Inlagatus) vel homo sub lege) signifieth him that is in some franck pledge, of whom take *Braclton* words, *lib. 3. tract. 2. cap. H. nū. 5.* *Minor vero, & qui infra etatem duodecim annorum fuerit, utlagari non potest nec extra legem ponit: quia ante eadem etatem non est sub lege aliqua, nec in decenna, non magis quam foemina, que utlagari non potest quia ipsa non est sub lege.* i. *Inlawghe anglise: sc: in franco plegio five decenna sicut masculus duodecim annorum & ultra, &c.* *Iulaughe*, significat hominem subjectum lege, *Fleta*, *lib. 1. cap. 47.*

Inlagary (Inlagatio) is a restitution of one outlawed, to the Kings protection, and to the benefit or estate of a subject, *Braclton*, *lib. 3. tract. 2. cap. 14. nū. 6, 7, 8.* *Britton. cap. 13.*

Inmates, are those that be admitted to dwell for their money joyntly with another man, though in severall roomes of his Mansion house passing in and out by one doore, and not being able

to maintaine themselves, which are inquirall in a *Leet, Kitchin*, fol. 45. where you may reade him at large, who be properly Inmates in intendment of law, and who not.

Imprison, anno 18. Ed. 3. statu. 4. cap. unico, seemeth to signifie so much as an attempe, comming of the French (*Empris*) which is all one with (*Enterpris*) an enterprise.

Inquirendo, is an authoritie given to a person or persons, to inquire into something for the Kings advantage; which, in what cases it lyeth, see the *Register originall*, fol. 72, 85, 124, 265, 266, 179, 267.

Inquisition (Inquisitio) is a manner of proceeding in matters criminall, by the office of the Judge, which *Hastiensis* defineth thus: *Inquisitio nihil aliud est quam aliquis criminis manifesto ex bono & aequo Judicis competentis canonice facta investigatio, ca. quas liter. de accusatio.* in the *Decretales*: this course wee take here in England by the great Enquest before Justices in Eyre. See *Eyre*; and the places in *Braclton* and *Britton* there noted. Inquisition is also with us, used for the King in temporall causes and profits, in which kind it is confounded with *Office, Stawns, prerog* fol. 51. See *Office*.

Inrolment (Irretulatio) is the Regi-

Registering, recording or entring of any lawfull act in the Rolles of the Chancerie, as recognisance acknowledged, or a Statute, or a Fine levied. See *West. parte 2. symbol. titulo Fines. Sect. 133.*

Insumul tenuit, is one species of the writ called a *Formdon*. See *Formdon*.

Intakers, be a kind of Thieves in *Ridesdall, anno 9. H. 5. co. 8.* so called, as it seemeth, because they dwelling within that libertie, did receive in such bootties of cattell or other things as the out parters brought in unto them. See *Out parters*.

Interdictio (*Interdictio*) is used in the common law, in the same signification that it hath in the Canon law, where it is thus defined: *interdictio est censura ecclesiastica prohibens administracionem divinorum: c. quod in te: deponitent: & remiss. in the Decretals: and thus is it used, anno 24. H. 8. cap. 12.*

Enterpledger. See *Enterpledger*.

Intrusion (*Intrusio*) by *Brafton lib. 4. cap. 2.* is thus defined: *Intrusio est, ubi quis, cui nullum jus competit in re nec scintilla iuris, possessionem vacuam ingreditur, que nec corpore nec animo possidetur, sicut hereditatem jacentem antequam adita fuerit ab herede, vel saltet a domino capitali ratione custodia, vel ratione eschaeta si forte heredes non*

*existant, vel si post mortem alicuius per finem factum, vel per medium donationis, ubi successio sibi locum vendicare non possit, vel si post mortem alicuius qui tenuit ad vitam debeat tenementum reverti ad proprietarium, ponat quis se in seisinam antequam tenementum illud veniat ab illis ad quem pertinere deberet ex predictis causis, with whom agreeeth *Fleta, lib. 4. cap. 30. sect. 1. & 2.* See *Briston cap. 65.* to the same effect. See the new booke of Entries, verb. *Intrusion*. See *Intrusion*. See *Dissision*: the Author of new Termes of law would have intrusion especially after the tenant for life is deceased. *Verbo Abatement*, and abatement in all other cases: But I finde not any Latine word for Abatement but *intrusio*, so that I rather thinke these two English words to be *Synonyms*: and *Fleta cap. supra citato*, seemeth direct against this his opinion.*

Intrusione, is a Writ that lyeth against the Intruder: *Regist. fol. 233.*

Inventarie (*inventarium*) is a description or repertory orderly made of all dead mens goods and Cattels prized by foure credible men or more, which every Executor or Administrator ought to exhibite to the Ordinary, at such times as hee shall appoint the same. *West. parte prim. Symb. lib. 2. sect. 696.* where likewise

you may see the forme: This Inventory proceedeth from the C*ivil Law*: for whereas by the ancient Law of the Romanes, the Heire was tyed to answere all the Testatoris debts, by which meanes heritages were prejudicial to many men and not profitable: *Institution* to incourage men the better to take upon them this charitable office, ordeined that if the Heire would first make and exhibite a true Inventory of all the Testators substance comming to his hand, hee should be no further charged, then to the value of the Inventory: *l. ult. Cod. de Jure deliberando.*

Invest (*investire*) commeth of the French word (*Investir*) and signifieth to give possession. Heare *Hotoman de verbis feudalibus*, verbo *Investitura*: *Investitura barbarum uomen, barbaricam quoq; rationem habet. Nam ut ait Feudista, lib. 2. tit. 2. Investitura proprio dicitur quando basta vel aliquod corporis traditur a domino;* with us we use likewise to admit the Tenant, by delivering them a verge or rodd into their hands, and ministering them an oath, which is called *Investing*: others define it thus: *Investitura, est atque as in suum jus introductio.*

Envre, signifieth to take effect: as the pardon intureth: *Statut. prerog. fol. 40.* See *Envre*.

Ioynder, is the coupling of two

in a suit or action against another: *Fitzh. nat. br. fol. 118. H. 205. H. 221. & H. in many other places, as appeareth in the Index. verbo Ioynder.*

Ioynnt tenants (*simil tenentes*) liber intrationum, *titulo Formdon in vien.* 3. bee those that come to and hold Lands or Tenements by one title *pro indiviso*, or without partition. *Littlton lib. 3. cap. 3.* and *Termes of Law*: See *Tenants in common*.

Joining of issue (*Junctio exiusti*) See *Issue*.

Joynture (*Junctura*) is a covenant whereby the husband or some other friend in his behalfe assureth unto his wife, in respect of mariage, lands, or tenements for terme of her life, or otherwise. See *Wif. part. 2. Symbol. lib. 2. titulo Covenants, sect. 128.* and the new exposition of the law *Termes*: It seemeth to be called a *Joynture*, either because it is granted *ratione juncture in matrimonio*, or because the land in Franke mariage, is given joynlyng to the Husband and the Wife, and after to the Heires of their bodies, whereby the Husband and Wife be made joynnt tenants during the coverture. *Coke lib. 3. Butler and Bakers case. f. 27.b.* See *Franchmarriage*. *Joynture*, is also used as the abstract of *Ioynnt tenants*. *Coke l. 3. the Marques of Wmchesters Case. fol. 3. a. b.* *Junctura*, is also by *Bra-*

Bration and *Fleta* used for joyning of one bargaine to another; *Fleta lib. 2. cap. 60.* touching the selfe same thing: and therefore joynture in the first signification, may be so called, in respect that it is a bargaine of livelihood for the wife: adjoynd to the contract of mariage.

Journ Choppers, anno 8. Hen. 6. cap. 5. be regraters of yarne. Whether that wee now call (yarne) were in those dayes called (journ) I cannot say: but (Choppers) in these dayes are well knowne to be changers, as choppers of Churches, &c.

Journeymen, commeth of the French (*Journee*) that is a day, or dayes worke, which argueth that they were called Journeymen, that wrought with others by the day, though now by statute it be extended to those likewise, that covenant to worke in their occupation wth another by the yeare, anno quinto Elizabeth, cap. quarto.

Issue (*Exitus*) commeth of the French (*Issir. i. emanare*) or the Substantive (*Issue. i. exitus, evenus.*) It hath divers applications in the common law: sometime being used for the children begotten betweene a man and his wife: sometime for profits growing from an amercement or fine, or expences of suit: sometime for profits of lands or tene-

ments: *West. 2. anno 13. Edw. prim. cap. 39.* sometime for that point of matter depending in suit, whereupon the parties joyne and put their cause to the triall of the Iury: and in all these it hath but one signification, which is an effect of a cause proceeding, as the children be the effect of the marriage betweene the Parents: the profits growing to the King or Lord from the punishment of a ny mans offence, is the effect of his transgression: the point referred to the triall of twelve men is the effect of pleading or process. *Issue*, in this last signification, is either generall or speciall: Generall issue seemeth to be that, whereby it is referred to the Iury to bring in their verdict, whether the Defendant have done a ny such thing, as the Plaintiff layeth to his charge. For example: if it be an offence against a ny Statute, and the Defendant plead, *not culpable*: this being put to the Iury, is called the generall issue: and if a man complaine of a private wrong which the Defendant denieth, and plead, no wrong nor disseisin, and this be referred to the 12. it is likewise the generall issue, *Kitchin*, fol. 225. See the *Doctor* and *Student*, fol. 158. b. the speciall issue then must be that, where speciall matter being alleagded by the Defendant for his defence, both

the parties joyne thereupon, and so grow rather to a Demurrer, if it be *questio Iuris*, or to tryall by the Iurie, if it be *questio facti*; see the new Booke of Entries: *verbo, Issue.*

Inchurte. See *Joyniture.*

Jure patronatus, See the new Booke of Entries, *verbo Iure pa-*
tronatus in quare impedit. fol. 465.
col. 3.

Jurie (*Jurata*) commeth of the French (*Iurer. i. jurare*) it signifieth in our Common Law, a company of men, as 24. or 12. Sworne to deliver a truth upon such evidence as shall be delivered them touching the matter in question. Of which tryall who may and who may not bee empanelled; see *Fitzb. nar. brev.* fol. 165. D. And for better understanding of this point, it is to be knowne, that there be three maner of trialls in England: one by Parliament, another by battell, and the third by Assise or Iurie: *Smith de Repub. Anglorum*, lib. 2. cap. 5, 6, 7. touching the two former reade him, and see Battell and Combat, and Parliament: the triall by Assise (be the action ci-vill or criminall, publike or pri-
-uate, personall or reall) is referred for the fact to a Iurie, and as they finde it, so passeth the Judge-
-ment, and the great favour that by this the King sheweth to his Subjects more then the Princes

of other Nations, you may reade in *Glanvil. lib. 2. cap. 7.* where he called it *Regale beneficium clementis principis de consilio procerum populis indulatum*, quo vite homini-
num & Status integratiss. tam sa-
lubriter consulitur; ut in iure,
quod quis in libero soli tenemento
possidet, resinendo, duelli casum de-
clinare possit homines ambiguum,
&c. see the rest. This Iury is not used onely in Circuits of Justices Errant, but also in other Courts, and matters of Office, as if the Escheatour make inquisition in any thing touching his Office, hee doth it by a Iurie or Inquest: if the Coroner inquire how a sub-
ject found dead, came to his end: hee useth an Inquest; the Justices of Peace in their quarter Sessions, the Sheriffes in his Countie and Turne, the Bayliffe of a Hundred, the Steward of a Court Leete, or Court Baron, if they inquire of any offence, or decide any cause betweene party and party, they doe it by the same maner. So that where it is said that all things bee triable by Parliament, Battell, or Assise; Assise in this place is taken for a Iurie or En-
quest, empaneled upon any cause in a Court where this kind of triall is used: and though it be commonly deemed, that this custome of ending and deciding causes proceed from the *Saxons* and *Brittons*, and was of fa-

favour permitted unto us by the Conquerour : yet I find by the grand *Customarie* of *Normandie*, cap. 24. that this course was used likewise in that Country. For Assise is, in that Chapter, defined to be an assembly of wise men, with the Bayliffe in a place certaine at a time assigned fortie dayes before, whereby Justice may be done in causes heard in the Court. Of this custome also, and those Knights of *Normandie*, *Johannes Faber* maketh mention, in the *Rubrique* of the Title *de militari testamento* : in *Institut.* this Iury, though it appertaine to most Courts of the common law, yet is it most notorious in the halfe yeare Courts of the Justices errants, commonly called the great Assises, and in the quarter Sessions, and in them it is most ordinarily called a Iurie. And that in civil causes : whereas in other Courts, it is oftener termed an Enquest, and in the Court Baron the Homage. In the generall Assise, there are usually many Iuries, because there be store of causes both civil and criminall commonly to be tried, whereof one is called the Grand Iury, and the rest Petit Iuries : whereof it seemeth there should be one for every Hundred, *Lamb. Eiremar. lib. 4. cap. 3. pag. 384.* The Grand Iurie consisteth ordinarily of 24. grave and

substantiall Gentlemen, or some of them Yeomen, chosen indifferently out of the whole Shire by the Sheriffe, to consider of all Bills of Inditement preferred to the Court: which they doe either approve, by writing upon them these words : *Billa vera* : or disallow, by writing, *Ignoramus* : such as they doe appove, if they touch Life and Death, are farther referred to another Iury to be considered of, because the case is of such importance : but others of lighter moment, are upon their allowance, without more worke fined by the Bench, except the party travers the Inditement, or challenge it for insufficiencie, or remove the cause to a higher Court by *Certiorarie*, in which two former cases it is referred to another Iurie, and in the latter transmitted to the higher, *Lamb. Eir. li. 4. ca. 7.* and presently upon the allowance of this Bill by the Grand Enquest, a man is said to be endited. Such as they disallow, are delivered to the Bench, by whom they are forthwith cancelled or torn. The Petit Iury consisteth of twelve men at the least, and are empannelled, as well upon criminall as upon civil causes, those that passe upon offences of Life and Death, doe bring in their verdict either *guilie* or not *guilie*, whereupon the Prisoner, if hee
be

be found guiltie, is said to be convicted, and so afterward receiveth his judgement, and condemnation : or otherwise is acquitted and set Free : Of this reade *Fortes.* cap. 27. those that passe upon civill causes reall, are all, or so many as can conveniently be had, of the same Hundred, where the land or tenement in question doth lie, and soure at the least. And they upon due examination bring in their verdict either for the Demandant, or Tenant. Of this see *Fortescue,* cap. 25, 26. according unto which, judgement passeth afterward in the Court where the cause first began : and the reason heereof is, because these Justices of Assise, are in this case, for the ease of the Country, onely to take the verdict of the Jury, by the vertue of the writ called (*Nisi prius*) and so returne it to the Court where the cause is depending. See (*Nisi prius.*) Joynt with this the chapter formerly cited out of the *Custumarie of Normandie* : and that of King *Etbeldreds* lawes, mentioned by Master *Lamberd*, *verbo Centuria*, in his explication of Saxon words. And by these two words you shall perteive, that as well among these *Normans*, as the *Saxons*, the men of this Jury were Associates and Assistants to the Judges of the Court, in a kind of equalitie ; whereas,

now adayes they attend them in great humilitie, and are, as it were, at their command for the service of the Court : the words set downe by *M. Lamberd* are these : *In singulis centuriis comitia sunt, atq; libere conditionis viri daudeni estate superiores, nra cum prepositis sacra tenentes, juranto, se adeo virum aliquem innocentem bandi condemnaturos, sententiae absoluuntur* : to this joyne also the 69. chapter of the said *Custumarie*. See *Enquest*. See 12. *Mon.* See *Lamberds Eirenarch. lib. 4. cap. 3. pag. 384.*

Juris atrium, is a writ, that lyeth for the incumbent, whose predecessor hath alienated his lands or tenements ; the divers uses of which writ, see in *Fitzb. nat. br. fol. 48.*

Jurisdiction (*Jurisdictio*) is a dignitie which a man hath by a power to doe Justice in causes of Complaint made before him. And there be two kinds of Jurisdictions, the one that a man hath by reason of his fee, and by vertue thereof doth right in all plaints concerning his fee : The other is a Jurisdiction given by the Prince to a Bayliffe : this division I have in the *Custumarie of Normandie*, cap. 2. which is not imapt for the practise of our Common wealth, for by him whom they call a Bayliffe, wee may understand all that have

commission from the Prince to give judgement in any cause : The Civilians divide *jurisdictionem* generally understand in *imperium & jurisdictionem* : and *imperium in merum & mixtum*. Of which you may reade many especiall tractats written of them, as a matter of great difficulty and importance.

Justes, commeth of the French (*Jousses. i. decursus*) and signifieth with us , contentions betweene Martiall men by speares on hors-backe, anno 24. H. 8. cap. 13.

Justiced Justiciarius is a French word, and signifieth him that is deputed by the King to doe right by way of judgement : the reason why he is called Justice, and not *Judex*, is because in ancient time the latine word for him was (*Justitia*) and not (*Justiciarius*) as appeareth by *Glorv. lib. 2. cap. 6. Roger Hoveden part. post. suorum annalium, fol. 413. a.* and divers other places, which appellation wee have from the *Normans*, as appeareth by the *Grand Custumarie, cap. 3.* And I doe the rather note it, because men of this function should hereby consider, that they are or ought to be, not (*Justi*) in their judgements, but in abstract (*ipsa justitia*) howbeit I hold it well, if they performe their office in *concreto*. Another reason why they are called *Justiciarii* with us, and not

Judices, is, because they have their authoritie by deputation, as Delegates to the King, and not *jure magistratus* ; and therefore cannot depute others in their stead, the Justice of the Forest onely excepted , who hath that libertie especially given him by the statute, anno 32. H. 8. cap. 35. for the Chancellor, Marshall, Admirall, and such like are not called *Justiciarii*, but *Judices* : of these Justices you have divers sorts in England, as you may perceve here following. The maner of creating these Justices, with other appertinances, reade in *Fortescu. cap. 51.*

Justice of the Kings bench (Justiciarius de Banco Regis) is a Lord by his Office, and the chiefe of the rest ; wherefore he is also called *Capitalis Justiciarius Anglie* : his Office especially is to heare and determine all plees of the crowne : that is, such as concerne offences committed against the crowne, dignitie, and peace of the King ; as treasons, felonies, mayhem, and such like, which you may see in *Braston lib. 3. tractat. 2. per totum* : and in *Stawins. treatise intituled, The plees of the Crowne*, from the first chapter to the fiftie one of the first Booke. But either it was from the beginning , or by time is come to passe : that he with his Assistants, heare all personall actions, and

reall also, if they be incident to any personall action depending before them: See *Cromptons jurisdict.* fol. 67. &c. Of this Court *Braetton lib. 3. cap. 7. nn. 2.* saith thus: *Placita vero civitatis in rem & personam in Curia domini Regis terminanda, coram diversis Justiciariis terminantur: Habet enim plures curias in quibus diverse actiones terminantur; & illarum curiarum habet unam propriam, sicut aulam regiam, & justiciarios capitales qui proprias causas Regis terminant, & aliorum omnium per querelam vel per privilegium sive libertatem; ut si sit aliquis qui implacitari non debeat, nisi coram domino Rege.* This Justice (as it seemeth) hath no patent under the broad Seale. For so *Cromp. saith ubi supra.* He is made onely by Writ, which is a short one to this effect; *Regina Johanni Popham militi salutem. Sciat is quod constitutimus vos Justiciarium nostrum capitalem, ad placita coram nobis terminandum, durante beneplacito nostro, Teste, &c.* And *Braetton* in the place now recited, speaking of the Common Plees, saith, that *Sine warranto jurisdictionem non habet*, which (I thinke) is to be understood of a Commission under the great Seale. This Court was first called the Kings Bench, because the King sat as Judge in it in his proper Person, and it was moveable with the Court. See *anno 18.*

9. H. 3. cap. 11. more of the jurisdiction of this Court, see in Crompton ubi supra. See Kings Bench. The oath of the Justices see in the statute, anno 18. Edw. 3. Stat. 4. See Oath.

Justice of common plees (Justiciarius communium placitorum) is also a Lord by his Office, and is called (*Dominus Justiciarius communium placitorum*) and he with his assistants originally did heare and determine all causes at the Common law, that is, all civill causes, betweene common persons, as well personall as reall, for which cause it was called the Court of Common Plees, in opposition to the Plees of the Crowne, or the Kings Plees, which are speciall and appertaining to him onely. Of this, and the jurisdiction heereof, see *Cromptons jurisdiction, fo. 91.* This Court was alwayes setled in a place, as appeareth by the statute *anno 9. H. 3. cap. 11.* The oath of this Justice and his Associates, see *anno 18. Edw. 3. Stat. 4. See Oath.*

Justice of the Forest (Justiciarius Forestae) is also a Lord by his Office, and hath the hearing and determining of all offences within the Kings Forest, committed against Venison or Vert; of these there bee two, whereof the one hath jurisdiction over all the Forests on this side Trent: the

the other of all beyond. The chiefest point of their Jurisdiction, consisteth upon the articles of the Kings Charter, called *Charta de Foresta*, made anno 9. H. 2. which was by the Barons hardly drawne from him, to the mitigation of over cruell ordinances made by his predecessors. Reade *M. Cambdens Britan.* pag. 214. See *Protovorestarius*. The Court where this Justice sitteth and determineth, is called the Justice seate of the Forest, held every three yeares once, whereof you may reade your fill in *M. Manwodis* first part of Forest lawes, pag. 121. & 154. & pag. 76. Hee is sometimes called Justice in Eyre of the Forest. See the reason in *Justice in Eyre*. This is the onely Justice that may appoint a Deputy per statutum, anno 32. H. 8. cap. 35.

Justices of Assise (*Iusticiarii ad capiendas Assises*) are such as were wont by speciall Commission to be sent (as occasion was offered) into this or that County to take Assises: the ground of which polity, was the ease of the Subjects: For whereas these actions passe alway by Jury, so many men might not without great hinderance be brought to London, and therefore Justices for this purpose were by Commission particularly authorised, and sent downe to them. And it may

seeme that the Justices of the Common Plees had no power to deale in this kinde of businesse, untill the Statute made anno 8. Richard. 2. cap. 2. for by that they are enabled to take Assises, and to deliver Gaols. And the Justices of the Kings Bench have by that Statute such power affirmed unto them, as they had one hundred yeares before that: Time hath taught by experience, that the better sort of Lawyers being fittest both to judge and to plead, may hardly be spared in terme time to ride into the Countrey about such businesse: and therfore of later yeares it is come to passe, that these Commissions (*ad capiendas Assises*) are driven to these two times in the yeare out of terme, when the Justices and other may be at leisure for these Controversies also: whereupon it is also fallen out, that the matters wont to bee heard by more generall Comissions of Justices in Eyre, are heard all at one time with these Assises: which was not so of old, as appeareth by *Bretton*, lib. 3. c. 6. 7. nu. 2. *Habet etiam Iusticiarii itinerantes de comitatu in Comitatum, quandoq; ad omnia placita, quandoq; ad quoddam specialia; sunt Assises &c. & ad Gaolas deliberandas, quandoq; ad unicav. & elatas, & nou plures.* And by this meanes the Justices of both Benches, being justly to be accoun-

ted the fittest of all others, and others their Assistants, as also the Sergeant at law may be employed in these affaires, who as gravest in yeares, so are they ripest in judgement, and therefore likeliest to be void of partialitie, for being called to this dignitie, they give over practice, anno 8. R. 2. cap. 3. but this alway to be remembred, that neither Justice of either Bench, nor any other may be Justice of Assise in his owne Country, anno 8. R. 2. cap. 2. & anno 33. H. 8. cap. 24. Lastly, note that in these dayes, though the selfe same may dispatch businesse of so divers natures, and all at one time, which were wont to be performed by divers, and at severall times, yet they doe it by severall Commissions, *Cromptons Jurisdictions*, fol. 210. For those who be in one word called Justices of Circuit, and twice every yeare passe, by two and two, through all England, have one Commission to take Assises, another to deliver Goales, another of Oyer and Terminer. That Justices of Assise, and Justices in Eyre did anciently differ, it appeareth anno 27. Ed. 3. cap. 5. and that Justices of Assise, and Justices of Goale delivery were divers, it is evident by anno 4. Ed. 3. cap. 3. The oath taken by Justices of Assise, is all one with the oath taken by the Justices of the Kings

Bench. *Old abridgement of Statutes, titulo Sacramentum Justiciariorum. See Oath.*

Justices of Oyer and Terminer, (*Justiciarii ad audiendum & Terminandum*) were Justices deputed upon some especiall or extraordinary occasion, to heare and determine some or more causes. *Fitzherbert* in his *natura brevium* saith, that the Commission d'Oyer and Terminer, is directed to certaine persons upon any great assembly, insurrections, hainous demeanure, or trespass committed. And because the occasion of granting this commission should be maturely weighed, is provided by the Statute anno 2. Ed. 3. cap. 2. that no such commission ought to be granted, but that they shall be dispached before the Justices of the one Bench or other, or Justices errants, except for horrible trespasses, and that by the especiall favour of the King. The forme of this commission, see in *Fitzh. natur. brev.* fol. 110.

Justices in Eyre (*Justiciarii itinerantes*) are so termed of the French (*Eyre. i. iter*) which is an old word, as (*a grand'erre. i. magnis itineribus*) proverbially spoken, the use of these in ancient time, was to send them with Commission into divers Countie, to heare such causes especially, as were termed the Pleas

Plees of the Crowne, and therefore I must imagine they were so sent abroad for the ease of the Subjects, who must else have beeene hurried to the Kings Bench, if the cause were too high for the County Court. They differed from the Justices of *Oyer* and *Terminer*, because they (as is above-said) were sent upon some one, or few especiall cases and to one place: whereas the *Justices in Eyre*, were sent through the Provinces and Counties of the land, with more indefinite and generall Commission, as appeareth by *Brazon*, lib. 3. cap. 11, 12, 13. and *Briston*, cap. 2. And againe they seeme to differ in this, because the Justices of *Oyer* and *Terminer*, (as it is before said) were sent uncertainly, upon any uproare or other occasion in the country: but these in *Eyre* (as *M. Gwin* setteth downe in the Preface to his *Reading*, were sent but every seuen yeare once; with whom *Horn* in his *mirrouer of Justices*, seemeth to agree, lib. 2. cap. *quenue point estre actours*, &c. and lib. 2. ca. *des peches criminels*, &c. at *suyte de Roy*, &c. and li. 3. ca. *de Justices in Eyre*: where hee also declareth what belonged to their office. These were instituted by *Henry the 2.* as *M. Camden* in his *Britannia* witnesseth pa. 104. And *Roger Hoveden*, parte poste-

ri. annalium. fol. 313. b. hath of them these words: *Justiciarii itinerantes constituti per Henricum secundum. i. qui divisit regnum suum in sex partes, per quarum singulas tres Justiciarios itinerantes constituit, quorum nomina haec sunt,* &c.

Justices of Gaol delivery (Justiciarii ad Gaolas deliberandas) are such as are sent with Commission, to heare and determine all cautes appertaining to such, as for any offence are cast into the *Gaol*, part of whose authoritie is, to punish such, as let to Mainprise those prisoners, that by law be not baileable by the statute *de finibus*, cap. 3. *Fitz. nat. br. fol. 151. I.* These by likelihood in ancient time, were sent to Countries upon this severall occasion. But afterward Justices of *Assise* were likewise authorized to this, anno 4. *Ed. 3. cap. 3.* Their oath is all one with other of the Kings Justices of either Bench, *Old Abridgement of Statutes, titulo Sacramentum Justiciorum*. See *Othe*.

Justices of labourers, were Justices appointed in those times, to redresse the fowardnesse of labouring men, that would either be idle, or have unreasonable wages. See anno 21. *Edwardi 3. cap. primo. anno 25. ejusd. cap. 8.* & anno 31. *ejusdem cap. 6.*

Justices of Nisi prius, are all one now adayes with Justices of Assises: for it is a common Adjournment of a cause, in the Common Pleas to put it off to such a day, *Nisi prius Justiciarii venerint ad eas partes, ad capiendas Assises*: and upon this clause of Adjournment, they are called Justices of *Nisi prius*, as well as Justices of Assises; by reason of the writ or action that they have to deale in: their commission you may see in *Cromptons Jurisdictions*, fol. 204. yet *M. Crompton* maketh this difference betweene them, because Justices of Assise have power to give judgement in a cause, but Justices of *Nisi prius*, onely to take the verdict. But in the nature of both their functions this seemeth to be the greatest difference, because Justices of *Nisi prius* have to deale in causes personall as well as reall, whereas Justices of Assise, in strict acceptation, deale onely with the possessory writs called *Assises*.

Justices of triall baston, alias of trayl baston, were a kind of Justices appointed by King Edward the first upon occasion of great disorder growne in the Realme, during his absence in the Scottish and French warres, they are called in the *Old nat. brev.* fo. 52. Justices of triall *Baston*, but by *Holyn-*

sbed and Stow, Ed. pri. of Traile baston, of trailing or drawing the staffe, as *Holinshed* saith: Their office was to make inquisition through the Realme by the verdict of substantiall Juries upon all officers, as Majors, Sheriffes, Bailiffes, Escheatours and others, touching extortion, briberies and other such grievances, as intrusions into other mens lands, and Barratours that used to take money for beating of men, and also of them whom they did beat: by meanes of which inquisitions many were punished by death, many by ransome, and so the rest flying the Realme, the land was quieted, and the King gained great riches toward the supporting of his wars. Inquire farther of the name. *Baston* is thought by some to be the beame of a paire of Scoales or Weights: And this is in this place metaphorically applied to the just peining of recompence for offences committed. My poore opinion is, that the etymologie of this title or addition groweth from the French (*Treilles*) i. cancelli, bars or letises of what thing soever, a grate with crosse bars, or of the singular (*Treille*) i. *pargulis*, an house arbour, a raile or forme, such as vines run upon, and (*Baston*) a staffe or pole, noting thereby, that the Justices employed in this Commission, had authoritie

thoritie to proceede without any soleinne Judgement Seate in any place either compassed in with railes, or made Booth or Tent-wisē, set up with staves or poales without more worke, wheresoever they could apprehend the malefactors they sought for. See libro *Affiarum*, folio 57. 141.

Justices of Peace (*Justiciarii ad pacem*) are they that are appointed by the Kings Commission, with others to attend the peace of the Countie where they dwell : of whom some upon speciall respect are made of the *Quorum*, because some busynesse of importance may not be dealt in without the presence or assent of them, or one of them. Of these it is but folly to write more, because they have so many things pertaining to their Office, as cannot in few words be comprehended. And againe Justice *Fitzherbert* sometime fithence, as also *Master Lamberd* and *Master Crompton* of late have written Bookes of it to their great commendation, and fruitfull benefit of the whole Realme. See also Sir *Thomas Smib de repub: Anglorum* lib. 2. cap. 19. They were called *Gardians* of the Peace, untill the 36. yeare of King *Edward the third*, cap. 12. where they be called *Justices*. *Lamb: Eirenarcha* lib. 4. cap. 19.

bag. 578. Their oath see also in *Lambard lib. 1. c. 10.*

Justices of Peace, &c. within Liberties, *Justiciarii ad pacem infra libertates*, be such in Cities and other Corporate Townes; as those others be of any County, and their authoritie or power is all one within their severall precincts, Anno 27. H. 8. cap. 25.

Justicies, is a Writ directed to the Sheriffe, for the dispatch of Justice in some especiall cause, wherewith of his owne authority he cannot deale in his Countie Court, *lib. 12. cap. 18.* whereupon the Writ de *Excommunicato deliberando*, is called a *Justicies* in the *Old natura brev. fol. 35.* Also the Writ, *de homine replicando eodem* fol. 41. Thirdly, the Writ, *de secunda superoneratione pasture*, *eodem* fol. 73. *Kitchin* fol. 74. faith, that by this Writ called *Justicies*, the Sheriffe may hold plee of a great summe, whereas of his ordinary authoritie he cannot hold plees but of summes under fortie shillings. *Crompton* fol. 231. agreeth with him. It is called a *Justicies*, because it is a Commission to the Sheriffe ad *Justiciandum aliquem*, to doe a man right, and requireth no returne of any certificate of what hee hath done. *Bracon lib. 4. tract. 6. cap. 13. num. 2.* maketh mention of a *Justicies* to the Sheriffe of London, in a case

case of Dower. See the new booke
of Entries, *Justices*.

Justification (*justificatio*) is an upholding or shewing a good reason in Court, why he did such a thing as he is called to answer, as to justifie in a cause of Replevin. *Broke, titulus Replevin.*

Keeper of the great Seale (*Custos Magni Sigilli*) is a Lord by his Office, and called Lord-Keeper of the great Seale of England, &c. and is of the Kings privie Councell, under whose hands passe all Charters, Commissions, and Grants of the King strengthened by the great or broad Seale. Without the which Seale, all such Instruments by Law are of no force; for the King is in interpretation and intendment of Law, a Corporation, and therefore passeth nothing firmly, but under the said Seale. This Lord Keeper by the Statute anno 5. Eliz. ab. cap. 18. hath the same and the like place, authoritie, preheminence, Jurisdiction, execution of Lawes, and all other Customes, Commodities, and advantages, as hath the Lord Chancellor of England for the time being.

Keeper of the privy Seale (*Custos privati Sigilli*) is a Lord by his office, under whose hands passe all Charters signed by the Prince,

before they come to the broad or Great Seale of England. Hee is also of the Kings privy Counsell. Hee seemeth to bee called Clerke of the privy Seale, anno 12. Rich. 2. cap. 11. But of late dayes I have knowne none to beare this Office, by reason the Prince thinketh good, rather to keepe this Seale in his owne hands, and by private trust to commit it to his principall Secretary, or some such one of his Councell as hee thinketh fit for that function.

Keeper of the Touch, anno 2. H. 6. cap. 14. seemeth to be that Officer in the Kings Mint, which at this day is termed the Master of the Assay. See *Mint*.

Keeper of the Forest (*Custos Forestae*) is also called chiefe Warden of the Forest, *Manwood parte pri. of his Forest lawes*, pag. 156. &c. and hath the principall government of all things belonging thereunto: as also the check of all officers belonging to the Forest. And the *Lord Chief Justice in Eyre of the Forest*, when it pleaseth him to keepe his Justice Seate, doth forty dayes before, send out his generall Summons to him, for the warning of all under-officers, to appeare before him at a day assigned in the Summons. This see in *Manwood ubi supra*.

King (Rex.) is thought by M. Cam-

Camden in his *Britan.* pag. 105, to be contracted of the Saxon word *Cyringe*, signifying him that hath the highest power and absolute rule over our whole land: and thereupon the King is in intendement of law cleared of those defects that common persons bee subject unto. For he is alwayes supposed to bee of full age, though he bee in yeares never so young: *Crompton's Jurisdictions* fol. 134: *Kitchin* fol. 1. Hee is taken as not subject unto death, but is a Corporation in himselfe that liyeth ever. *Crompton ibidem.* Thirdly, hee is above the law by his absolute power, *Bracton lib. 1, cap. 8.* *Kitchin* fol. 1. And though for the better and equall course in making Lawes, he doe admit the three Estates, that is, Lords Spirituall, Lords Temporall, and the Commons unto councell, yet this in divers leartied mens opinion, is not of constraint, but of his owne benignitie, or by reasoun of his promise made upon oath at the time of his coronation. For otherwise were hee a subject after a sort, and subordinate; which may not be thought without breach of duty and loyaltie. For then must wee deny him to bee above the law, and to have no power of dispensing with any positive law, or of granting e-speciall priviledges and Char-

ters unto any, which is his onely and cleare right, as Sir Thomas Smith well expresteth, lib. 2, ca. 3, *de Repub. Anglicæ.* and *Bracton*, lib. 2, cap. 16, num. 3, and *Britton* ca. 39. For he pardoneth life and limme to offendours against his Crowne and Dignity, except such as hee bindeth himselfe by oath not to forgive. *Statut. Pl. Cor.* lib. 2, cap. 35. And *Habet omnia jura in manus sua*, *Bracton* lib. 2, ca. 24, n. 1. And though at his coronation he take an Oath, not to alter the lawes of the land, yet this oath notwithstanding he may alter, or suspend any particular law that seemeth hurtfull to the publique Estate. *Blackwood in Apologia Regum,* ca. 11. See *Oath of the King.* Thus much in short, because I have heard some to bee of opinion, That the Lawes bee above the King. But the Kings Oath of old you may see, in *Bracton*, lib. 3, ca. 9, n. 2. for the which looke in *Oath of the King.* The Kings oath in English you may see in the old Abridgement of Statutes, *titulus Sacram. Regis.* Fourthly, the Kings onely testimony of any thing done in his presence, is of as high nature and credit as any Record. Whence it commeth, that in all writs or precepts sent out for the dispatch of justice, he useth none other witness but himselfe, alwayes using

these words under it, *Teste me ipso.*
Lastly, he hath in the right of his
Crown many Prerogatives above
any common person, be he never so
potent or honorable: whereof you
may reade your fill in Stawnfords
Tractate upon the Statute thereof
made, anno 17. Ed. 2. though that
containe not all by a great num-
ber. What the Kings power is,
reade in *Braeton.lib2.cap.24.nu.pri.*
& 2.

King of Heralds (*Rex Haraldo-
rum*) is an Officer at Armes, that
hath the preeminence of this So-
cietie. See *Herald*. This Officer
of the Romanes was called *Pater
Patratuſ*.

Kings Bench (*Bancus Regis*) is the Court or Judgement Seate
where the King of England was
wont to sit in his owne person;
and therefore was it moveable
with the Court or Kings House-
hold. And called *Curia domi-
ni Regis*, or *Aula Regia* as Ma-
ster *Gwinne* reporteth in the Pre-
face to his Readings; and that
in that and the Exchequer, which
were the onely Courts of the
King, untill *Henry the Thirds*
dayes, were handled all matters
of Justice, as well Civill as Cri-
minall; whereas the Court of
Common Plees might not be so
by the Statute: anno 9. H. 3. cap.
11. or rather, by Master *Gwins*
opinion, was presently upon the
grant of the great Charter seve-

rally erected. This Court of the
Kings bench was wont in anci-
ent times to be especially exerce-
sed in all Criminall matters and
Plees of the Crowne, leaving the
handling of private contracts to
the County Court. *Glanvil.lib.1.*
cap. 2, 3, 4. & lib. 10. cap. 18.
Smith de Repub. Anglicana, lib. 2.
cap. 11. and hath President of it,
the Lord Chiefe Justice of Eng-
land, with three or foure Justices
assistants, foure or five as *Fores-
tius* saith, *cap. 51.* and Officers ther-
unto belonging, the Clerke of
the crowne, a *Prenatory*, or *Phot-
notarie*, and other ſix inferior Mi-
nisters or Atturries. *Camb. Bri-
tan. pag. 112.* See *Lawsit*. How
long this Court was moveable, I
find not in any Writer: But in
Brittons time, who wrote in K. Ed.
the 1. his dayes, it appeareth it fol-
lowed the Court, as M. *Gwin* in
his ſaid preface well obſerveth out
of him. See *Justice of the Kings
Bench*.

Kings silver, is properly that
modey, which is due to the King
in the Court of common Plees, in
respect of a licence there granted
to any man for passing a fine. *Coke
vol. 6. fol. 39. a. & 43. b.*

Kintail of woad, iron, &c. is a
certayne waight of Merchandise,
to the valew of an hundred, or
ſomething under or over, accord-
ing to the divers uſes of ſundry
nations. This word is mentioned
by

by *Plowden* in the case of *Reniger* and *Fogessa*.

Knave is used for a man-servant anno 14 Edw. 3, statute 1, c. 3. And by *M. Verstigans* judgement, in his restitution of decayed intelligence, c. 10, is borrowed of the Dutch *knapa*, *cnav* or *knave*, which signifie all one thing. And that is some kind of officer or servant: as *scild-knapa* was hee that bore the weapon or shield of his superior, whom the Latines call *Armigerum*; and the French men, *Escuyer*.

Knight (*miles*) is almost one with the Saxon *Cnight*, i. *administer*; and by *M. Camdens* judgement, pag. 110, derived from the same. With us it signifieth a Gentleman, or one that beareth arms, that for his vertue, and especially marshall proesse, is by the King, or one having the Kings authority, singled (as it were) from the ordinary sort of Gentlemen, and raised to a higher account or step of dignity. This among all other Nations, hath his name from the Horse: because they were wont in antient time to serve in warres on horsebacke. The Romans called them *Equites*, the Italianis at these dayes terme them *Cavallieri*. The French men *Chevalliers*. The German, *Reiters*. The Spaniard, *Cavalleros*, or *Varones à Cavallo*. It appeareth by the statute, anno 1,

Ed. 2. cap. 1. that in ancient times, Gentlemen having a full Knights fee, and holding their land by Knights service, of the King, or other great person, might be urged by distresse, to procure himselfe to bee made Knight, when hee came to mans estate for the answerable service of his Lord in the Kings wars. To which point you may also reade *M. Camden* in his *Britan.* pag. 111. But these customes be not now much urged: this dignity in these dayes being rather of favour bestowed by the Prince upon the worthier sort of Gentlemen, then urged by constraint. The manner of making Knights (for the dignitie is not hereditarie) *M. Camden* in his *Britan.* pag. 111. shortly expresseth in these words: *Nostris vero temporibus, qui Equestrem dignitatem suscipit, flexis genibus educto gladio leviter in humero percutitur. Princeps his verbis Gallicè affinatur: Sus vel sois Chevalier au nom de Dieu. id est. Surge, am, Sit Eques in nomine Dei.* The Solemnitie of making Knights among the Saxons, *M. Stow* mentioneth in his *Annals*, pag. 159. See the privilegedes belonging to a Knight in *Ferns Glorie of Generositie*, pag. 116. Of these Knights there be two sorts: one Spirituall, another Temporall. *Cassaneus in gloria mundi*, parte 9. Considerat. 2. of both these sorts,

and of many subdivisions, read him in that whole part. The Temporall, or second sort of Knights M. Ferne in his Glory of generositie, pag. 103. maketh threefold here with us. Knights of the Sword, Knights of the Bath, and Knights of the Soveraine Order, that is, of the Garter: of all which you may read what hee saith. I must remember that mine intent is but to explaine the termes especially of our common Law. Wherefore such as I find mentioned in Statutes, I will define as I can. M. Skene de verbor. significat. verbo *Militer*, saith, that in the ancient Lawes of Scotland, Freeholders were called *Militer*, which may seeme to have beeene a custome with us also by divers places in Braston, who saith, that Knights must be in Juries, which turne Freeholders do serve.

Knights of the Garter (*Equites Garterii*) are an Order of Knights, created by Edward the third, after hee had obtained many notable victories (King John of France, and King James of Scotland being both his prisoners together; and Henry of Castile the Bastard expulsed out of his Realme, and Don Pedro being restored unto it by the Prince of Wales, and Duke of Aquitane, called the Blacke Prince) who for furnishing of this Honorable

Order, made a choice out of his owne Realme, and all Christendome, of the best, and most excellent renowned Knights in Vertues and Honour, bestowing this dignitie upon them, and giving them a Blew Garter, decked with Gold, Pearle, and pretious stones, and a Buckle of Gold to weare daily on the left legge onely, a Kirtle, Crowne, Cloake, Chaperon, a Coller, and other stately and magnificall apparell, both of stusse and fashyon, exquisite and heroicall, to weare at high Feasts, as to so high and Princely an Order was meet. Of which order, hee and his successors, Kings of England, were ordained to be the Soveraignes, and the rest fellows and brethren to the number of twentie sixe, *smithi de Repub. Anglo. lib. prim. cap. 20.* I have seen an ancient monument, whereby I am taught that this Honorable Company is a Colledge or a Corporation, having a common Seale belonging unto it, and consisting of a Soveraigne Gardian, which is the King of England, that alwayes governs this order by himselfe or his Deputy, of twenty five Companions called Knights of the Garter, of foureteen secular Chanons that be Priests, or must be within one yeere after their admission: 13. Vicars also Priests, and 26. poore Knights, that have

have no other sustenance or meanes of living but the allowance of this house, which is given them in respect of their daily Prayer to the Honour of God, and (according to the course of those times) of Saint George. There be also certain officers belonging to this order, as namely, the Prelate of the Garter, which office is inherent to the Bishop of Winchester, for the time being, the Chanceler of the Garter, the Register, who is alwaies Deane of Windsor. The principall King at Armes called Garter, whose chiefe function is to mannage, and marshall their Solemnities at their yearlye Feasts and installations. Lastly, the Usher of the Garter, which (as I have heard) belongeth to an Usher of the Princes chamber, called Blacke red. There are also certaine ordinances or Constitutions belonging unto this Societie, with certaine forfeitures, and sometime penances for the breakers of them; which constitutions concerne either the Solemnities of making these Knights, or their duties after their creation, or the Priviledges belonging to so high an order, but are too large for the nature of this poore Vocabularie. The site of this Colledge, is the Castle of Windsor, with the Chapel of Saint George, erected by Edward the Third,

and the Chapter house in the said Castell. Howbeit the yearlye Solemnite or Profession may be, and is, by the Soveraignes direction, performed at the Court, wheresoever it lyeth, upon Saint Georges day. Master Cambden saith, that this order received great ornament from Edward the fourth. See M. Fernes glorie of Generositie, pag. 12c. See Garter. Hospinian in his booke de origine & progressu Monachorum, maketh mention of this honourable order, terming it by ignorance of our tongue ordinem Carteriorum equitum; and Charteriorum equitum; which you may reade, cap. 307. as also Bernardus Girardus in his historie, lib. 15. cap. 185.

Knights of the Bath (militis balnei, vel de balneo) are an order of Knights made within the Lists of the Bath, girded with a Sword, in the ceremonie of his creation. Ferns glorie of generositie, pag. 105. These are spoken of, anno 8. Edw. 4. cap. 2. But I had an old Monument lent mee by a friend, whereby it appeareth, that these Knights were so called of a Bath, into the which (after they had bee shaven and trimmed by a Barber) they entered, and thence, the night before they were Knighted, being well bathed, were taken againe by two Esquiers

commanded to attend them, dried with fine linnen cloathes, and so apparelled, and led through many solemne ceremonies, viz. confessing their sinnes, watching and praying all night in a church or Chappell, with many other, to the order of Knighthood the next day. So that by the same reason these seemed to be tearmed Knights of the Bath, by which Knights made out of the field in these dayes are called Knights of the Carpet, because in receiving their Order, they commonly kneele upon a carpet.

Knights of the Order of S. John of Jerusalem (Milites Sancti Joannis Hierosolomitani) were otherwise called Knights of the Rhodes: beeing an Order of Knighthood that had beginning about the year of the Lord 1120, Honorius then Pope of Rome : Cassareus, de Gloria Mundi, parte 9, Consideratione 4. And Master Ferne in his Glory of Generosity, pag. 127. They had their primary foundation and chiefe aboade first in Hierusalem, and then in Rhodes, where many of them lived under their Principall, called the Master of Rhodes, untill they were expelled thence by the Turke, Anno 1523. Sithence which time their chiefe Seat is at Malta, where they have done great exploits against the Infidels,

but especially in the year 1595. These, though they had their beginning and especiall aboade first at Hierusalem, and next in Rhodes, yet they increased both in number and revenues, living after the Order of Friars under the rule of Saint Augustine, and were dispersed into France, Spain, Alverne, Campany, England and Ireland. Of these mention is made in the statute, Anno 25, Hen. 8, ca. 2. and anno 26 ejusdem ca. secundo. And it appeareth that they in England had one generall Prior, that had the government of the whole Order within England and Scotland, Regist. orig. fo. 20, b. But toward the end of Henry the eights dayes, they in England and Ireland being found overmuch to adhere to the Bishop of Rome against the King, were suppressed, and their lands and goods referred by Parliament to the Kings disposition, anno 32 Hen. 8, ca. 24. The occasion & the propagation of this order more especially described, you may reade in the treatise intituled the book of Honor and Armes, li. 5, ca. 18, written by Master Richard Johnnes.

Knights of the Rhodes, an. 32 H. 8 ca. 24. See Knights of the order of S. John.

Knights of the Temple (otherwise called Templers) Temp- plarii

plarii was an Order of Knight-hood, created by *Gelasius* the Pope, about the yeare of our Lord, 1117. and so called, because they dwelt in a part of the buildings belonging to the Temple. These in the beginning dwelling not farre from the Sepulchre of the Lord entertained Christian strangers and Pilgrims charitably, and in their Armour ledde them through the Holy Land, to view such things, as there were to be seene, without feare of Infidells adjoyning. This Order continuing and increasing by the space of 200. yeares, was farre spred in Christendome, and namely here in England. But at the last, the chiefe of them at *Hierusalem*, being (as some men say) found to fall away to the Sarazens from Christianity, and to abound in many vices, the whole Order was suppressed by *Clemens quintus*, which was about King Ed. the 1. dayes, and their substance given partly to the Knights of the Rhodes, and partly to other Religious. *Cassian de gloria mundi, parte 9. Confid. 5.* And see *anno prim. Ed. 1. cap. 24.* Others write that in truth their destruction grew from leaning to the Emperour against the Pope of Rome, whatsoever was pretended. *Joach. & epibnus De jurisdictione, lib. 4. cap. 10. nn. 18.* See *Templars.*

Knights of the Shire (Militis Comitatus) otherwise bee called Knights of the Parliament, and bee two Knights, or other Gentlemen of worth, that are chosen in *pleno Comitatu*, by the freeholders of every Countie that can dispend 40. shillings per annum, and be Resident in the shire, anno 10. H. 6. cap. 2 & anno 1. H. 5. cap. 1. upon the Kings writ, to be sent to the Parliament, and thereby their counsell to assist the common proceedings of the whole Realme. These when every man that had a Knights fee, were custumarilie constrained to bee a Knight, were of necessity to bee *militis gladio cincti*, for so runneth the tenour of the writ at this day. *Cromptons Jurisdiction. fol. pri.* But now there being but few Knights in comparison of former times, and many men of great livings in every county, Cnftome beareth that Esquiers may bee chosen to this office. anno 23. H. 6. cap. 6. so that they be resident within the countie, anno. H. 6. cap. 7. & anno 1. H. 5. cap. prim. For the observations in choice of those Knights, see the statutes, anno 7. H. 4. cap. 15. & anno 11. ejusdem. cap. 1. & anno 6. Hen. 6. cap. 4. & anno 23. H. 6. cap. 15, and the new booke of Entries, verbo *Parliament.* n. 1. Their expences during the Parliament are borne by the Countie

County, anno 35 Henric. 8.
cap. II.

Knight Marshal (Marescallus hospiti regii) is an officer in the Kings house, having jurisdiction and cognisance of any transgression within the kings houie and Verge, as also of Contracts made within the same house, wherunto one of the house is a party: *Regist. origin. fo. 185, a, b. et fo. 191 b.* whereof you may there read more at large.

Knights fee (feudum militare) is so much inheritance as is sufficient yearly to maintaine a Knight with convenient revenue, which in Henry the thirds dayes was fifteene pounds, *Camdeni Britan. pag. 111.* Or 680 Acres of land, or 800 acres, *eodem.* But Sir Thomas Smith in his *Repub. Angl. 1. prim. ca. 18,* rateth it at forty pound. And I find in the statute for knights, *anno pri. Ed. 2, ca. prim.* that such as had twenty pounds in fee, or for terme of life per annum, might be compelled to be Knights. Master Stowe in his *Annals, pag. 285,* sayth, that there were found in England at the time of the Conqueror sixty thousand two hundred and eleue Knights fees: others say 60215, wherof the religious houses before their suppression were possessed of 28015. Knights fee is sometime used for the rent that a Knight paith for his fee to his Lord, of whome hee

holdeth. And this is an uncertaine summe: some holding by forty shillings the shield, some by twenty shillings, as appeareth by *Braekon lib. 5, tract. prim. ca. 2.*

Knighten gyde, was a Gyde in London consisting of nineteen Knights which King Edgar founded, giving unto them a portion of void ground lying without the walls of the city, now called *Port-soken ward.* Stowe in his Annals, pag. 151.

L A

L *Aboratis,* is a writ that lieth against such, as having not wherof to live, do refuse to serve, or for him that refuseth to serve in Summer where he served in Winter, *Orig. Reg. fol. 189 b.*

Laches commeth of the French (*Lascher, i. laxare, or lasche, i. frigidus, ignarus, flaccidus*) It signifieth in our common law, negligence; as no *laches* shal be adjudged in the heire within age, *Littleton, fo. 136:* and *Old Nat. Brev. fo. 110.* where a man ought to make a thing, and makes it not, I of his *laches* cannot have an Assise, but I must take myne Action upon the Case.

Ligon, see *Flotzon.*

Laised lists, an. 1 R. 3, ca. 8.
Land tenant, anno 14 Edw. 3.
stat. 1, ca. 3. et anno 23 ejusdem,
cap. 9.

cap. 1. & 26. ejusd. stat. 5. cap. 2.
See *Terre-tenant*, & *anno 12. R. 2.*
cap. 4. & anno 4. H. 4. cap. 8. It is
joyned with this word (*Passeſſor*)
as *Synonymon*. v. *anno 1. H. 5. c. 5.*
See *Terretenant*.

Lanis de crescentia Wallie tradu-
cendis absq; custuma, &c. is a writ
that lyeth to the Customer of a
Port, for the permitting one to
passe over Woollies without Cu-
ſtome, because he hath payd Cu-
ſtome in *Wales* before, *Register*,
fol. 279.

Lapse (*Lapsus*) is a ſlip or de-
parture of a right of Presenting
to a voyde Benefice, from the
originall Patron, neglecting to
present within six moneths unto
the Ordinarie. For wee ſay,
that Benefice is in lapse or la-
ped, whereunto hee that ought
to present, hath omitted or ſlipped
his opportunity, *anno 13. Eliz. ab. cap. 12.* This lapse groweth
as well the Patron being igno-
rant of the avoydance, as privie,
except onely upon the Resignation
of the former Incumbent, or
the Deprivation upon any cause
comprehended in the Statute, *an-*
no 13. Eliz. cap. 12. Panor. in cap.
quia diversitatem, num. 7. de con-
cess. prebend. Rebuffus de dovolut.
in praxi beneficiorum. Lancelotus
de collatione: lib. 1. Institut. Canon.
¶ Tempus autem. In which caſes
the Bishop ought to give notice
to the Patron.

Larceny (*Laricinium*) commeth
of the French (*Larcen. i. furtum,*
detractio alicui.) It is defined by
West. parte 2. Sym. titulo Indite-
ments, to be theft of personall
goods or chatels, in the owners
absence: and in respect of the
things stollen, it is either great or
ſmall. *Great Larceny* is, wherein
the things stolne, though ſeveral-
ly, exceed the value of 12. pence,
and *Petit Larceny*, is, when the
goods stolne exceed not the value
of 12. pence; hitherto *M. West.*
But he differeth from *Braſton, lib.*
3. tract. 2. ca. 32. nn. 1. Of this ſee
more in *Statuſ pl. cor. li. 1. ca. 15,*
16, 17, 18, 19.

Ligblite, is compounded of
(*lab. i. lex*) and (*slite. i. ruptum*)
and signifieth *multam rupte vel*
violata legis, *Lamb. explication of*
Saxon words, verbo Multa.

Last, is a Saxon word, ſignify-
ing a burden in generall, as alſo
particularly a certaine weight: for
as we ſay, a Last of hering, ſo
they ſay, *Eig last cornes, last wines,*
&c. thence commeth *Lastage*,
which ſee in *Lastage*. A Last of
hering containeth ten thousand,
anno 21. Ed. 3. stat. 2. cap. 2. A
Last of pitch & tarre, or of ashes,
containeth 14. barrells, *anno 32.*
H. 8. ca. 14. A Last of hides, *an-*
no 1. Jac. cap. 33. containeth 12.
dozen of hides or ſkins.

Laitat, is the name of a writ,
whereby all men in personall
actions,

actions are called originally to the Kings Bench, *Fitz. nat. brev.* fol. 78. *M.* And it hath the name from this, because in respect of their better expedition, a man is supposed to lurke, and therefore being served with this writ, he must put in securitie for his appearance at the day, for *littare, est se malitiosè occultare animo fraudandi creditores suos agere volentes.* *l.* *Fulcinius* §. *Quid sit littare.* *n.* *Quibus ex causis in possessionem eatur:* But to understand the true originall of this Writ, it is to be knowne, that in auncient time, whilst the Kings Bench was moveable, and followed the Court of the King, the custome was, when any man was to be sued, to send foorth a Writ to the Sheriffe of the County where the Court lay, for the calling him in: and if the Sheriffe returned, *Non est inventus in baliva nostra, &c.* then was there a second writ procured foorth, that had these words, (*Testatum est eum littare, &c.*) and thereby the Sheriffe willeth to attach him in any other place where he might be found. Now when the tribunall of the Kings Bench came to be settled at *Westminster*, the former course of writ was kept for a long time, first sending to the Sheriffe of *Middlesex* to summon the partie, and if hee could not be found there,

then next to appreliend him wheresoever. But this seeming too troublesome for the subiect, it was at last devised, to put both these writs into one, and so originally to attach the partie complained of upon a supposall or fiction, that hee was not within the Countie of *Middlesex*, but lurking elsewhere, and that therefore hee was to be apprehended in any place else, where he was presumed to lye hidden, by a writ directed to the Sheriffe of the Countie where hee is suspected to be. And by this writ a man being brought in, is committed to the Marshall of that Court, in whose custodie when he is, then by reason he is in the same Countie where the Kings Bench is, he may be sued upon an action in that Court, whereas the originall cause of apprehending him, must be a pretence of some deceit or contempt committed, which most properly of old belonged to the cognizance of that Court. I have been informed, that the bringing of these actions of *Trespassè* so ordinarily to the Kings Bench was an invention of Councillers, that because onely Sergeants may come to the Common plees Barre, found a meanes to set themselves on worke in that Court. The forme of this writ is such: *Jacobus Dei gratia Anglie, Francie, Scotie, & Hibernie*

bernia Rex, fidei defensor, &c.
Vicecomitis Cantabrigie salutem.
Cum Vicecomiti nostro Middle-
sexia nuper preceperimus, quod ca-
peret Thomam T. & Willmum
W. si inventi fuissent in balliva
sua, & eos salvo custodires, ita
quod haberet corpora eorum coram
nobis apud Westminster die vene-
ris proximo post octavas Sancte
Trinitatis, ad respondendum Ro-
berto R. de placito transgressio-
nis, cumq; vicecomes noster Mid-
dlesexie, ad diem illum nobis re-
turnaverit, quod predicti Thomas
T. & Willmum W. non sunt
inventi in balliva sua, super quo
ex parte predicti Roberti in curia
nostra coram nobis sufficienter te-
statum est, quod predicti Thomas
& Willmum latitant & discur-
runt in comitatu tuo. Idecirca tibi
precipimus quod c piat eos, si in-
venti fuerint in balliva tua, & eos
salvo custodias, ita quod habeas
corpora eorum coram nobis apud
Westminster, die Martis proximo
post tres septimanas, eodem Tri-
nitatis, ad respondendum prefato
Roberto de placito predicto, & ha-
beas ibi tunc hoc breve. Teste Jo-
hanne Popham apud Westminster.
Roper.

Launcegay, anno 7. Ric: secundi,
cap. 13.

Law (lex) commeth of the Saxon (lab) the generall signification
is plaine, onely this I thought to
note, that the law of this land

hath been variable. For first Dum-
mallo Mulmutius otherwise Mo-
lincius a Britain, that being duke of Cornwall, reduced the whole
land formerly severed by civill
wars, into the state of a Monar-
chie, made certayne wholesome
Lawes, which long after were
called Mulmutius Lawes, and by Gyldas translated out of the
British Tongue into Latine, *Statu*
in his Annals, pag. 16. Of these
there remaine yet certaine heads,
recorded by our Historiogra-
phers, as followeth. 1. Ut Deo-
rum templa, & civitates bominum
consequantur tantam dignitatem,
qe quis illo confugens extrabi pos-
sit, antequam ab eo quem laeserat,
veniam impetraverit. 2. Ut bujus-
modi privilegium immunitati ba-
beant etiam ipsa vie qua ducunt
ad templi & ad urbes. 3. Imo &
jumenta quoq; illa, que rei rustica
subveniant. 4. Deniq; colonorum
aratra ipsa tali prerogativa liber-
tatis perfruantur. 5. Hoc amplius,
ut ne qua terra vacaret cultura,
neve populus inopis rei frumentaria
premeretur, aut ea minaretur, si
pecora sola occuparent agros qui
ab hominibus coli debent. 6. Con-
stituit quod aratra quelibet dice-
sis haberet: as poenam statui: iis,
per quos ille unumerus aratorum fo-
ret dominatus. 7. Item vetuit, bo-
vem aratorem pro debito pecunie
assignari debitoribus, si alia bona
debitoris essent. Ita fore, ne compen-
di

diis clausa homines pecuniarii agros inviolos redderent : sic etiam fore, ne quid eorum rerum quas natura praebet, hominibus usquam deesse posset. Rich. *Vitus historiarum Britannia*. lib. 3. num. 1. And of these lawes we finde no obscure remanets in our lawes now in use : See *Magna charta*, cap. 1. & cap. 14. See *Sanctuary*. See *Peace*. Then was there a law called *Mershenlage*, whereby the *Mercians* were governed, being a Kingdome in the heart of the land, containing those Countries, that be now called *Northampton-shire*, *Leicester-shire*, *Rutland-shire*, *Lincolne-shire*, *Nottingham-shire*, and *Derbyshire*, *Camden Britannia*, pag. 94. whose power was great in the *Heptarchie* of the Saxons, untill at the last they were conquered by the West Saxons, and made subject to them. *Polydor. in Angl. Hist.* lib. 5. But whereas the name of these lawes savoureth of the Saxons time, it is reported by others that *Martinus* a very learned Queen, and wife to *Quintelinus* a Britton King, was the author of them, long before the Saxons set foot in England. Rich. *Vitus histo. Britan.* li. 3. m. 14. who also saith that *Alfred* the Saxon King translated both these, & also those of *Mulmarius* into the *English* or *Saxon* tongue. Thirdly, there was the law of the West Saxons, called *West Saxon-*

lage, and the law of the *Danes*, when they set foot into the realm, called *Denelage*. And of these lawes, *Edward* made one law, as some write, whereby he ruled his Kingdome. But *M. Camden ubi supra*, speaking nothing of *Mulmarius* lawes, saith out of *Gervinus Tilburiensis*, that of the other three *William* the Conquerour chose the best, and to them adding of the *Norman* lawes, such as he thought good, hee ordained lawes for our Kingdome, which we have at this present, or the most of them.

Law hath an especiall signification also, wherein it is taken for that which is lawfull with us, and not elsewhere. As tenent by the courtesie of England, an. 13. Ed. 1. ca. 3. and againe, to wage law, *vadire legem* : and to make law, *facere legem* : *Bract. lib. 3. tract. 2. cap. 37.* is to challenge a speciall benefit, that the law of this realm affordeth in certain cases : whereof the first, sc. *vadire legem*, is to put in securitie, that hee will make law at a day assignd, *Glanville*, lib. 1. cap. 9. and to make law, is to take an oath, that hee oweth not the debt challenged at his hand, & also to bring with him, so many men as the Court shall assigne, to avow upon their oath, that in their consciences hee hath sworne truly. And this law is used in actions of debt, without

without specialtie, as also where a man comming to the Court, after such time, as his tenements for defalke, bee seised into the Kings hands, will denie himselfe to have beene summoned, *Glanville*, lib. 1. cap. 9. & 12. And see *Braeton ubi supra*, num. 1. v. *Kitchin*, fol. 164. See the new exposition of law *Termes, verbo (Ley)* this is borrowed from *Normandie*, as appeareth by the *Grand Custumarie*, cyp. 85. But Sir *Edward Cooke* saith, it springeth originally from the Judiciall law of God, lib. 4. of his reports. *Slades case*, fol. 95. b. alleaging the 22. chapter of *Exodus*, verse 7. Whether so or not, the like custome is among the Feudists: by whom they that come to purge the defendant, are called (*Sacramentales*,) *libro feud. 1. titulo 4. Sect. 3.* & *titulo 10. & titulo 26.*

Law of armes (jus militare) is a Law that giveth precepts and rule how rightly to proclaim war, to make and observe leagues and truce, to set upon the enemy, to retire, to punish offendours in the Camp, to appoint Souldiers their pay, to give every one dignitie to his desert, to divide spoiles in proportion, and such like, for farther knowledge whereof, reade those that write *de jure bello.*

Law day, signifieth a Leete,

Cromptons Jurisdict. fol. 160. and the county Court, anno 1. Ed. 4. cap. 2.

Lawler man, is he qui est extra legem, *Braeton, lib. 3. tract. 2. cap. 11. num. 1.* See *Outlaw*.

Law of Marque. See *Reprisalles*. This word is used anno 27. Ed. 3. stat. 2. cap. 17. and groweth from the German word *March*. i. *limes*, a bound or limite. And the reason of this appellation is, because they that are driven to this law of reprisall, doe take the goods of that people of whom they have received wrong, and cannot get ordinary Justice, when they can catch them within their owne territories or precincts.

Law Merchants, is a privilege or speciall law differing from the common Law of England, and proper to Merchants and summary in proceeding, anno 27. Ed. 3. stat. 8, 9. 19, & 20. anno 13. Ed. 1. stat. tertio.

Lawing of dogs (expeditatio canum.) See *Expeditate*. Mastiffs must be lawed every three yeare. *Cromptons Jurisd. fol. 163.*

Lease (lesse) commeth of the French (*layfer, i. linquere, relinquere, omittiere, permittere:*) It signifieth in our common Law, a dimise or letting of lands or tenements or right of common, or of a rent or any hereditament

unto another, for terme of yeares or of life, for a rent reserved. And a lease is either written, called a lease by Indenture, or made by word of mouth, called a lease paroll. See the new Termes of the law. The partie that letteþ this lease, is called the Leassour, and the partie to whom it is let, the Leassee. And a lease hath in it six points : viz. words importing a demise, a leassee named, a commencement from a day certaine, a terme of yeares, a determination, a reservation of a rent, *Cooke vol. 6. Knights case*, fol. 55. a.

Leete (leta) is otherwise called a law day, *Smith de Republ. Anglor. lib. 2. cap. 18.* the word seemeth to have growne from the Saxon (Letbe) which as appeareth by the lawes of King Edward set out by *M. Lamberd, num. 34.* was a Court of Jurisdiction above the Wapentake or Hundred, comprehending three or foure of them, otherwise called Tþryking, and contained the third part of a Province or Shire. These Jurisdictions one and other be now abolished, and swallowed up in the Countie Court, except they be held by prescription. *Kitchin, fol. 6.* or Charter in the nature of a franchise, as I have said in (Hundred.) The libertie of Hundreds is rare, but many

Lords, together with their Courts Baron, have likewise Leetes adjoyned, and thereby doe enquire of such transgresſions, as are ſubject to the enquirie and correction of this Court: whereof you may reade your fill in *Kitchin*, from the beginning of his booke to the fift Chapter, and *Britton, cap. 28.* But this Court, in whose manner foever it bee kept, is accounted the Kings Court, because the authoritie thereof is originally belonging to the Crowne, and thence derived to inferiour persons, *Kitchin, fol. 6.* Justice Dyer sayth, that this Leete was firſt derived from the Sheriffes, *Turn, fol. 64.* And it enquireth of all offences under high treason, committed againſt the Crowne and Dignitie of the King; though it cannot puniſh many, but muſt certifie them to the Justices of Assize, *per Statut. anno 1. Ed. 3. cap. 11.* *Kitchin, fol. 8.* but what things bee onely inquirable, and what puniſhable, see *Kitchin* in the charge of a Court Leet, fol. 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20. See alſo the Statute, *anno 8. Ed. 2.* The Jurisdiction of Bayliffes in the Dutchy of Normandie, within the compasse of their Provinces, ſeemeth to be the ſame, or very neare the ſame, with the power of our Leete.

Leete, cap. 4. of the grand Custumary.

Legacie (legatum) is a particular thing given by last will and testament. For if a man dispose or transferre his whole right or estate upon another, that is called *Hereditas* by the Civilians, and hee to whom it is so transferred, is termed *heres*. Howbeit our common Lawyers call him *Heire*, to whom all a mans lands and hereditaments doe descend by right of bloud. See *Heire*. See *Hereditaments*.

Leprojo annovento, is a writ that lyeth for a Parish, to remove a Leper or Lazar, that thrusteth himselfe into the companie of his neighbours, either in Church or other publike meeting, and commeth with them to their annoyance or disturbance. *Regist. orig. fol. 267. Fitzb. nat. br. fol. 234.*

Lestage, alias lastage, (lastagium) proceedeth from the Saxon word (*/ast. i. onus*) and is a custome challenged in Faires and Markets, for carrying of things. *Rastals Exposition of words : or a custome chalenged in cheapings or Faires. Saxon in the description of England, cap. 11. Lestage anno 21. R. 2. cap. 18.* seemeth to be the Ballance of a ship. *Fleta* termeth it *Lesting*, saying, *quod significat acquietantiam Lestagii. lib. 1. cap. 47. §. Lesting.*

Letters of Exchange, (litera Cambioria, vel litera Cambis) Regist. orig. fol. 194. a.

Letters patent (*litera patentes*) bee Writings sealed with the broad Seale of England, whereby a man is authorized to doe or enjoy any thing that otherwise of himselfe he could not, *anno 19. H. 7. cap. 7.* And they be so termed of their forme, because they be open with the Seale hanging, ready to be shewed for the confirmation of the authoritie given by them. If any will say, that Letters patents may be granted by common persons, I will not greatly contend. For I find that to be true in *Fitz. nat. br. fol. 35. E.* Howbeit, they bee called rather patents in our common speech, then Letters patents. Letters patents to make Denizens, *anno 32. Hen. 6. cap. 16.* yet for difference sake, the Kings letters patents be called letters patents royall. *anno 2. Hen. 6. cap. 10. There is likewise a writ patent. Fitzb. nat. br. fol. 1. & seqq.*

Levari facias, is a writ directed to the Sheriffe, for the levying of a Summe of money upon lands and tenements, of him that hath forfeited a Recognizance, &c. *Regist. origin. fol. 298. b. & 300. b.*

Levari facias dama de disseisitoribus, is a writ directed to the Sheriffe, for the levying of dam-

dannages, wherein the disseisor hath formerly beeene condemned to the disseisee. Register, fol. 214. b.

Levari facias residuum debiti, is a writ directed to the Sheriffe, for the levying of a Remenant of a debt upon lands and tenements, or chatels of the debtor, that hath in part satisfied before, Register, orig. fol. 299.

Levari facias quando vicecomes returnavit quid non habuit emptores, is a writ commanding the Sheriffe to sell the goods of the debtor, which hee hath already taken, and returned that he could not sell them, and as much more of the debtors goods, as will satisfie the whole debt. Register, orig. fol. 300. a.

Letter of Atturney (*litera Attunatus*) is a writing, authorizing an Atturney, that is, a man appointed to doe a lawfull act in our steeds, West. part. prim. symbol. lib. 2. sect. 559. It is called in the civill law (*mandatum*, or *procuratorium*). There seemeth to be some difference betweene a letter of Atturney, and a warrant of Atturney. For whereas a letter of Atturney is sufficient, if it be sealed and delivered before sufficient witnesse: a warrant of Atturney must bee acknowledged and certified before such persons, as fines be acknowledged in the Countrey, or at the

least before some Justice or Sergeant. West. parte 2. symbol. titulo Recoveries. sect. 1. F. See the statute, anno 7. R. 2. cap. 14.

Letters of Marque. See *Marque* and law of *Marque*. See *Reprisals*. See an. 14. Hm. 6. cap. 7.

Letters patents of summons for debt, anno 9. H. 3. cap. 18.

Levy (*Levare*) commeth of the French (*Lever*. i. *allevare*, *attollere*) It is used in our common Law, for to set up any thing, as to levie a mill. *Kitchin*, fol. 180. or to cast up, as to levie a ditch. Old. nat. br. fol. 110. or to gather and exact, as to levie money. See *Levari facias*.

Libell (*Libellus*) literally signifieth a littlebooke, but by use it is the originall declaration of any action in the civill law, an. 2. H. 5. cap. 3, & anno 2. Ed. 6. ca. 13. It signifieth also a criminous report of any man cast abroad, or otherwise unlawfully published in writing, but then for difference sake, it is called an infamous libell, *famosus libellus*.

Libello habendo. See *Copia libelli liberanda*.

*Liber a Chace habend*s**, is a writ Judiciall, granted to a man for a free chace belonging to his manor, after he hath by a Jury proved it to belong unto him, Register Judiciall, fol. 36. & 37.

Liberate, is a warrant issuing out of the Chancery to the Treasurer,

surer, Chamberlaines, and Barons of the Exchequer, or Clerk of the Hamper, &c. for the payments of any annuall pension or other summes granted under the broad Seale, v. *Brooke, titulo Tайлд Exchequer.* n. 4. Reg. orig. fol. 193. a. b. or sometime to the Sheriff, &c. nat. br. fol. 132. for the delivery of any lands or goods taken upon forfeits of Recognition, *Fitzb. nat. br. fol. 131, & 132.* v. *Coke lib. 4. Fulwoods case,* fo. 64, 66, & 67. It is also to a Jayler from the Justices, for the delivery of a Prisoner that hath put in baile for his appearance, *Lamb. Eirens. lib. 3. ca. 2.*

Libertate probanda, is a writ that lieth for such as be challenged for Slaves, and offer to prove themselves free, to the Sheriff, that hee take securitie of them for the proving of their freedome before the Justices of Assise, and provide, that in the meane time they be quiet from their vexations, that challenge them for Slaves. *Fitzb. nat. br. fol. 77.* See *Nativo habendo.*

Libertatibus allocandis, is a writ that lieth for a Citizen or Burgesse of any City, that contrarily to the liberties of the Citie or Towne whereof hee is, is impleaded before the Kings Justices, or Justices errants, or Justice of the Forest, &c. that refuseth, or deferreth to allow his privilege,

Orig. Regist. fol. 262. Fitzb. nat. br. fol. 229.

Libertatibus exigendis in itinere, is a writ, whereby the King willeth the Justices in Eyre, to admit of an Attorney for the defence of another mans liberty, &c. before them, *Regist. orig. fol. 19.b.*

Libertas (libertas) is a privilege held by grant or prescription, whereby men enjoy some benefit or favor beyond the ordinarie subject. Liberties royall what they be, see in *Bracion, lib. 2. ca. 5. Broke hoc titulo.* See *Fraunce.*

Librata terre, containeth four Oxegangs, and every Oxegang 13. Acres, *Skene de verb. signif. verbo Bovata terra.* See *Farding deale of land.*

Licence to goe to election, (*Licentia eligendi*, *Regist. folio 294.*) See *Conge d'elire.*

Licence to arise, (*licentia surgendi*) is a liberty given by the Court to a tenent, that is eschewed *de malo lecti* in a reall action. For the law is, that in this case hee may not arise out of his bed, or at least go out of his chamber, untill hee have been viewed by Knights thereunto appointed, and so upon view of his sicnessesse, have a day assigned him to appeare, or else lie untill hee be licensed by the Court to arise. And the reason of this is, as I

take it, because it may appeare whether he caused himselfe to be esoined deceitfully , yea or not : And therefore if the Demaundant can prove, that he bee scene out of his chamber, walking up & down his grounds, or else going abroad unto any other place, before hee be viewed or have license of the Court, hee shall be adjudged to be deceitfully esoined, and to have made default. Of this see *Braeton*, lib. 5, tract. 2, ca. 7, 10, & 12. and *Fleta*, li. 6, ca. 10. *Horn* in the seconde booke of his *Mirroure*, c. 1. des *Eſſoynes*, layth, that the adverſe party may grant *licentia ſurgendi* to his adversary thus eſſoyned. And if he wil not, the king upon just cause may.

Licentia ſurgendi, is the writ wherby the tenent esoined *de mālo kēti*, obtaineth liberty to rise. See *Licentie to arise*. See the Register, fol. 8.

Licentia transfiſtandi, is a writ or warrant directed to the keepers of the port at Dover, &c. willing them to let some paſſe quietly over ſea , that hath formerly obtained the kings license thereunto, Regist. orig. fol. 193. b.

Lieutenant (*locum tenens*) is a French word, ſignifying as much as *Legatus*. It is compounded of *liev*, id est, *locus*, and *tenir*, id est, *tenere*. It ſignifieth with us, him that occupieth the Kings place,

or repreſenteth his person , as the Lieutenant of the Kings of Ireland , an. 4 H. 4, cap. 6. So is it used, an. 2 & 3, Edward 6, cap. 2. whence that officer ſeemeth to take his beginning. But I read also in Master *Manwoods* firſt part of Forest lawes pag. 113, that the lord chiefe justice in Eyre of the Forest, and the chiefe warden also, have their lieutenants in the forest. So that though a Lieutenant bee most ordinary and most properly used for the deputy of a king, yet is it ſomtime extended to their deputies that be but lieutenants to the King.

Lieutenant of the ordnance; an. 39, Eliz. ca. 7.

Liege (*ligius*) is a word bor-rowed from the Feudists, and hath two ſeverall ſignifications in our common Law : ſomtime beeing uſed for Liege Lord, an. 34 & 35 H. 8, cap. 1. and an. 35 ejusdem, cap. 3. and ſomtime for Liege man, an. 10 R. 2, ca. 1. and an. 11 ejusdem cap. 1. Liege-lord is hee that acknowledgeth no ſuperior; *Ditareuuas in Commentari de Consuetudin Feudorum*, cap. 4, un. 3. Liege man is hee that oweth legeancie to his liege lord. Master *Skeete de verbo signif. verbo Ligantem*, ſayth, that it is derived from the Italian word *Lig*, i. a Band, league, or obligation. In whom read more of this matter.

Ligeancie

Ligeancy, is such a duty or fealty as no man may owe or beare to more than one Lord. *Idem eodem, num. 4.* I finde also this definition of ligeancy, in the graund Custumary of Normandy, *ca. 13.*

Ligeantia est, ex qua dominio tenentur vasalli sui contra omnes homines qui mori possunt & vivere, proprii corporis preberi consilii et auxilii juvamentum, & ei se in omnibus innocuos exhibere, nec ei adversantium partem in aliquo consovere. Dominus etiam eosdem tenet regere, protegere & defensare: eosque secundum jura & consuetudines, & leges patric pertractare. This is otherwise called *legietas*, *Cassand. de Consuetud. Burgund. pag. 420 & 421.* This word is used in the statutes of our realme, as the Kings liege people, *anno 14 Hen. 8, ca. 2.* Of the oath of legeancy, *Jacobutius de Franchis, in preludio Feudorum, ca. 2, num. 138,* hath these words: *Præstatur hoc ligeum homagium in manibus regis vel Imperatoris, genibus flexis, positu manibus junctis in manibus Domini, dicendo; Ego juro homagium tibi Domini, ut à modo sim homo ligerus vester, contra omnem hominem, qui potest vivere: verba sunt pulchra.* *Andr. de Isern. in cap. 1, in verbo omnem. Colum. prima de nova forma fidelita:* & hoc ligessum homagium videmus præstari domino Regitatum: quia cùm per id officiatur homo solius illius, cui juratur, ut dixit *Hostiensis in ca.*

*exc diligentia. de Symon. alii non potest præstari, i. quis illius solius esse similiter non potest: non n. esse potest duorum in solidum l. si ut certo. §. si duobus vehiculum. π. commodati. secundum And. in dicto ca. 1, §. omnem. & Bald. hic in 7 divis. & Alvar. in 13 divisione. Non ligemum vero dicitur, quando quis jurat fidelitatem Domino, excepta aliqua persona: viz. Domino superiori, vel antiquiore: *Hactenus Jacobutius;* whereyon may read more touching this point. As also in *Hotomans Disputations, De Feudis, pag. 816, fol. 820, &c.**

*Ligeance (Ligeantia) see Liege. It sometime signifieth the dominions or territoritie of the liege Lord: as *an. 25 E. 3, s. 2.* Children born out of the liegeance of the King.*

Lieravit est mulcta adulteriorum, Fleta li. 1, ca. 47. It is used for a liberty whereby a Lord challengeth the penalty of one that lieth unlawfully with his bondwoman: see *Lotherwit.*

Limitation of assise (limitatio assise) is a cartaine time set downe by statute, wherein a man must alledge himselfe or his auncestour to have beene seised of lands sued for by a writ of Assise. See the statute of Merton, *cap. 8, anno 20 Hen. 3. & Westm. 1, ca. 38. and anno 32 H. 8, ca. 2. & an. 1 M. 1. pag. ca. 5.* See also *S 2 Thel-*

The booke Digest of writs, li. 10, ca. 2.
So it is used in the Old *Natura
Brevi*. fo. 77, in these words; The
writ *de consuetudinibus & servi-
tis* lieth, where I or myne an-
cestours, after the limitation of
Ayliffe, were not seised of the Cu-
stomes, &c. But before the Limi-
tation of Ayliffe we were seised,
&c.

Lindwood was a Doctor of
both Civill and Canon Lawes,
and Deane of the Arches: hee
was Embassadour for *Heury* the
fifth into Portugall, anno 1422.
as appeareth by the preface to his
Commentary upon the Provinci-
alls.

Littleton was a Lawyer of great
account living in the dayes of
King Edward the fourth, as ap-
peareth by *Statvs. prærogati*, c. 21,
fo. 72. Hee wrote a booke of great
account, called *Littletons Tenures*,
which Hotman in his Commen-
tary *de verbis Fendalibus, verb.
Fædum*, thus commendeth: Ste-
phanus Pasquerius excellens vir in-
genio, & inter Parisiensos causidic-
cos dicendi facultate prestans, li-
bellum mihi Anglicanum Littleton-
num dedit, quo Fendorum Angli-
corum jura exponuntur, ita incondi-
te, absurdæ, & inconcinnæ scriptum,
ut facile appareat verum esse, quod
Polydor. Virgilius in *Anglica Hi-
storia* scribit, stultitiam in eo libro
cum malitia & calumniandi studio
certare.

*Literæ ad faciendum attornatum
pro se facienda.* See in the Re-
gister originall, fol. 172. *Literæ de
annua pensione*, eodem 268 & 307.
*Literæ patens ad faciendum gene-
ralem attornatum quia infirmus*, eod-
em fo. 21. *Literæ per quam Domini-
nus remittit curiam suam Regi*, eod.
fol. 4. *Literæ de requestu*, eodem, fo.
129. *Literæ Canonici ad exercen-
dam jurisdictionem loco suo*, fo. 305.
*Literæ patentes ad conferendum Be-
neficia*, domino in remotis agente. fol.
305. *Literæ ad innescandum recu-
perationem Regi de ecclesia orani-
bus quorum interest*, fo. 305. *Literæ
patentes Regis quod Abbas ad totam
vitam suam possit facere Attornatos
generales*, fo. 21. *Literæ procuratorie*
fo. 205, 306. *Literæ Regie depreca-
torie*, pro annua pensione, fol. 307.
All these you may see in their
places, and understand the mean-
ing of them as occasion shall re-
quire.

Livery (Liberatura) is drawne
from the French *livre*, id est, *infig-
ne*, *gestamen*, *Centuriale discri-
men*, *nota centurialis*, *turmalis*. Or else
from *livrer*, id est, *tradere*, and
accordingly hath three significati-
ons: in one it is used for a suit of
cloath or other stiffe that a Gen-
tleman giveth in Coats, cloaks,
Hats, or Gownes, with Cog-
niscance or without, to his ser-
vants or followers, an. 1 Ric.2.
cap. 7. et an. 20 ejusdem cap. 1.
et 2. and an. 7 Hen.4, cap. 14. and
anno

anno 8 Edw. 4, cap. 2. & anno 7 o-
jusdem, cap. 14. and an. 13 ejus-
dem, cap. 3. and an. 8. H. 6. ca. 4.
and an. 8 Edw. 4, cap. 3. and anno
3 H. 7, cap. 1 & 12. and an. 11 e-
jusdem, cap. 3. and an. 19 ejusdem,
cap. 14. In the other signification
it betokeneth a delivery of pos-
session unto those tenents which
hold of the King in Capite, or in
Knights service, for the King by
his prerogative hath *primiceri sepsi-
ni*, or the first possession, of all
lands and tenements so holden of
him : anno 52 Hen. 3, cap. 16.
and an. 17 Edw. 2, cap. 3. that
is, when any such tenent dyeth,
the King forthwith enureth, and
holdeth it till the heire do his
homage, and so pray his land
to bee delivered unto him.
Which act in the King is called
Livery, and Livery in this signi-
fication is either generall or
speciall, *Statu. prærogat.* fo. 12,

& cap. 3. Livery generall seemeth
to be that which is made in gene-
rall words, and therefore may easi-
ly bee misused. Livery speciall
is that, which containeth in it
a pardon of oversights com-
mitted by the tenent in serving out
his Livery, by which pardon the
misusing is dispensed with. *Statu-
ford pag. 67. cap. Travers.* 20. See
the Institutes and grounds of the
Common law, chapter the thir-
tieth, of generall and speciall Live-
ries. Livery in the third significa-

tion is the writ which lieth for
the heire, to obtaine the possession
or seisin of his lands at the Kings
hands. Which see in *Fitz. nat. bre.*
fo. 155.

Livery of seisin (*deliberatio sei-
sine*) is a delivery of possession of
land or tenement, or other things
corporeall (for of things incor-
poreal no Livery of seisin may be)
unto one that hath right or a pro-
bability of right unto them. For
as *Braetton* sayth, *Traditio debet esse
vestita, et non nuda : sc. quod
traditione procedat vera causa, vel
putativa, qua transeat Dominicum.*
lib. 2, cap. 18, num. 3. *Weſt parte 1,*
symbol. li. 2, sett. 196, calleth this
a ceremony in the common Law,
used in the conveyance of lands
or tenements, &c. where you may
see the usuall forme hereof parti-
cularly set downe, whereunto
joyn the new Exposition of Law
termes.

Lieutenant, see *Lieutenant*.

Lieutenant of the Tower, seemeth
to have bin an officer under the
Constable, *an. H. 4, ca. 15.*

Locus partitus, signifieth a
division made betweene two
Townes or counties, to make tri-
al in whether the land or place in
question lieth. *Fletali. 4. cap. 15,*
nu. 1.

Locall, (*localis*) signifieth in
our Common Law, as much as
tied or annexed to a place cer-
tain. Example: the thing is lo-
cal

call, and annexed to the freehold: *Kitchin* fo. 180. And againe in the same place, An action of trespass for batterie, &c. is transitory, not locall, that is, not needfull that the place of the battery should be set downe as materiall, in the Declaration: or if it be set downe, that the defendant should traverse the place set downe, by saying he did not commit the battery in the place mentioned in the declaratiōn, and so avoid the Action. And againe, *fol. 230*, the place is not locall, that is, not materiall to bee set downe in certaintie. And the gard of the person, and of the lands differeth in this, because the person being transitory, the lord may have his Ravishment de Gard, before hee bee seised of him, but not of the Land, because it is locall. *Perkins Grants*, 30.

Lobbe, is a great kind of North sea fish, *an. 31 Edw. 3, statut. 3, ca. 2.*

Lodemanage, is the hire of a Pilot for conducting of a ship from one place to another.

Loich fish, as Lob, Ling, Cod, *an. 31 Ed. 3, stat. 3, ca. 2.*

Lodeworks, is one of the workes belonging to the stannaries in Cornwall, for the which reade *M. Canidens Britan.* in his title of Cornwall, *pag. 119*. See *Stremework*.

Lollards (*Lollardi*) were in

account and reputation of those times, Heretiques that abounded here in England, in the dayes of Edward the third, and Henry the fifth, *an. 2 H. 5, cap. 7*: whereof *Weekleise* was the chiefe, as *Stow* saith in his *Annals*, *pa. 425*; who by his report, went bare footed, and basely cloathed, to wit, in base russet garments downe to the heeles: they preached, and especially against Monkes and other religious men. Of these reade more in him, and others that writ of those times. The name *Lindwood* deriveth à *Lolio*, quia sicut *Lolium* inficit segetes: sic *Lollardi* multo ciens inficiunt fideles simplices inter quos converfantur. in *ca. finali. de Hereticis*, verbo *Lollardie*. But *Tritemius* in his Chronicle deduceth the name from one *Gnalter Lolbard* à Germane, as the first author of that Sect, living about the year of our Redemption 1315.

Lord (Dominus) by Master Cambdens opinion, is a contract of *Lafford*, which is the Danish word for dominus. It is a word of honour with us, and is used diversly. Sometime being attributed to a man that is noble by birth or creation, which sort are otherwise called Lords of the Parliament. Sometime to those that be so called by the courtesie of England, as all the sonnes of a Duke, or the eldest sonne of an Earle,

Earle. Sometime to men honourable by office ; as Lord chiefe Justice , &c. And sometime to a meane man that hath fee , and so consequently the homage of tenants within his manour , for by his tenants hee is called Lord , and by none other , and in some places for distinctions sake hee is called land-Lord . It is used neverthelesse by the writers of the Common-Law most usually in this signification : and so is it divided into Lord above ; and lord mesne . Lord mesne is hee that is owner of a manour , and by vertue therof hath tenants holding of him in fee , and by copy of Court-rolle , and yet holdeth himselfe over a superiour Lord ; who is called Lord above , or Lord paramount . Old nat.brev. fo. 79. Although I thinke none simply to be accounted Lord paramount but the Prince : because all other hold immediately or immediatly of him , and hee of none . In this signification I likewise reade Very Lord , and very Tenant , eodem , fol. 42. and Brooke titulo Heriot , ms. 1. where I thinke . Very Lord is he which is immediate Lord to his tenent : and him to bee Very tenent to that Lord of whome he immediately holdeth . So that if there be Lord above , lord mesne and tenent , the Lord above is not very Lord to the tenent , nor

the tenent very tenent to the lord above .

Lord in grosse , Fitzb. nat. brev. fo. 3, is hee that is Lord having no manour , as the king in respect of his Crowne , idem , fo. 5, f. See him also , fo. 8, a, b. where I finde a case wherein a private man is lord in grosse , viz. a man make a gift in sayle of all the land hee hath , to hold of him , and dieth ; his heire hath but a Seigniory in grosse .

Lorimers , an. 1, R. 2, ca. 12, is one of the companies of London , that maketh bits for bridles of horses , and such like : the name seemeth to be taken from the Latine *Lorum* , and is elsewhere written Lorinors .

Logherwit , alias *Leyerwit* , is a liberty or priviledge to take amends of him that defileth your bondwoman without license . Radfords exposition of words . It is an amends for lying with a bondwoman . Saxon in his description of England , cap. li. Some thinke it should be rather written *Legerwit* ; for *Leger* is the Saxon word for a bed ; or *Logherwit* , of the old word *Logher* , being of the same signification . See *Bloodwit* , and *Lyerwit* .

Lasernes , see *Fauvre* .

Lushborow , is a base coyne used in the dayes of King Edward the third , coyned beyond seas to the likenesse of English money , and brought

brought in to deceive the King and his subjects. To avoid the which, it was made Treason for any man wittingly to bring in any such, anno 25. Edw. 3. stat. 4. cap. secundo.

Macegrefs, alias Macegrefs, be such as willingly buy and sell stollen flesh, Briton, cap. 29. fo 71. b. Cromptons Justice of peace, fol. 193. a.

Magna assise eligenda, is a writ directed to the Sheriffe, to summon four lawfull Knights before the Justices of Assise, there upon their oathes to chuse twelve Knights of the vicenage, &c. to passe upon the great Assise betweene A. Plantiffe, and B. Defendant, &c. Register originall, fol. 8. a.

Magna Charta, called in English the great Charter, is a Charter containing a number of Lawes ordeined the ninth yeere of Henry the third, and confirmed by Edward the first. The reason why it was termed *Magna Charta*, was either for that it conteined the summe of all the written Lawes of England; or else, that there was another Charter called the Charter of the Forest, established with it, which in quantitie was the lesser of the two. I read

in *Holinshed*, that King John, to appeale his Barons, yeelded to Lawes, or Articles of Government, much like to this great Charter; but wee now have no ancienter written Law, then this, which was thought to be so beneficall to the subject, and a law of so great equitie, in comparison of those which were formerly in use, that King Henry the third was thought but hardly to yeeld unto it, and that to have the fifteenth penie of all the moveable goods, both of the Spiritualtie and Temporaltie throughout his Realme. *Holinshed* in Henry the third. And though this Charter consist not of above thirtie seven Charters or Lawes: yet is it of such extent, as all the Law wee have, is thought in some sort to depend of it. *Polydorus* and *Holinshed*, *ubi supra*.

Mahim (*Mabeniam*) commeth of the old French (*Mebsaigne*) as *M. Skene* saith, *de verbis significat. verbo Macbarium*, and signifieth a corporall hurt, whereby a man loseth the use of any member, that is, or might be any defence unto him in battell. The Canonists call it *Membrinoclastionem*, as the eye, the hand, the foot, the scalpe of the head, his fore-tooth; or, as some say, of any finger of his hand, *Glanville*, lib. 14. cap. 7. See *Brs-*

Bracon at large, lib. 3, tractat 2, ca. 24, num. 3. and *Britten ca. 25.* and *Statu[m] pl. cor. lib. 1, ca. 41.* and the new Exposition of Law-Termes : and the Mirroure of Justices, cap. d^e *Homicid.* The grand Customary of Normandie, ca. 6, calleth it *Mahaignum*, and defineth it to be *Enormem lesionem.* All agree, that it is the losse of a member, or the use thereof. And *membrum*, as *Cassan. de consuetu.* *Burgund*, p. 168, defineth it out of *Baldus*, *Est pars corporis habens destinatam operationem in corpore;* where you may reade more of this point. But if you will see it largely discusſed, looke *Vaglinus de irregularitatibus*, cap. 4, § 3, 4, 5. also reade *M. Skene, ubi supra.*

Mainour, alias manour, alias meinoure, seemeth to come of the French (*manier*, i. *manu tractare, attractare*) or else of *Amener*, i. *abducere.* It signifieth in our Common Law, the thing that a Theefe taketh away or stealeth. As to be taken with the mainour, *Pl. Cor. fo. 179*, is to be taken with the thing stollen about him : and againe, *fol. 194.* It was presented, that a Theefe was delivered to the Viscount together with the mainour. And thirdly *fol. 186*, If a man bee indicted, that hee feloniously stole the goods of another, where in truth they be his owne goods :

and the goods bee brought into the Court, as the mainour, and it bee demanded of him, what he saith to the goods : and bee disclaime them ; though he bee quitted of the felonie, hee shall lose the goods. And again, *fol. 149*, if the Defendant were taken with the manour, and the manour bee carried to the court, they in ancient times would arraigne him upon the manour, without any appeale or inditement : I finde this word used in the Old Nat. brev. fo. 110, in this sort : where a man maketh a thing by mainour or levying, or estopping, in such case hee shall have assise : where it signifieth handy labour, and is but an abbreviation of *Mainoursy.*

Mainovre, see Miroverye.

Mainprise (*manuscaptio*) is compounded of two French words, *Main*, *manus*, and *prise*, id est *captus*; which is a participle of the verbe *prendre*, id est, *capere, excipere, captare.* It signifieth in our common Law, the taking or receiving a man into friendly custody, that otherwise is or might be committed to the mercy of the prison, upon security given for his forth-coming at a day assigned : as to let one to mainprise, Old nat. Brev. fo. 42, is to commit him to them that undertake his appearance at

the time appointed. And they that doe thus undertake for any, are called Mainpernours, because they doe receive him into their hands. *Pl. Co.* fo. 178. Of this sort is the word Mainpernable, which signifieth him that hath committed such an offence, as by Law hee may be thus bayled: for in many cases a man is not mainpernable: whereof see *Brooke, titulo Mainprise, per totum.* and *Fitzb. nat.brev.* fo. 249, & seq. Master *Manwood* in the first part of his Forest lawes, pag. 167, maketh a great difference betweene Bayle and Mainprise. For hee that is mainprised (quoth hee) is alwayes sayd to be at large, and to goe at his owne liberty out of ward, after the day is set to mainprise, untill the day of his appearance, by reason of the sayd commonsummons, or otherwise. But otherwise it is where a man is let to bayle to foure or two men, by the Lord Justice in Eyre of the Forest, untill a certaine day. For there he is alwayes accounted by the Law to be in their ward and custody for the time. And they may if they will, keepe him in ward or in prison all that time, or otherwise at their will. So that he that is so bayled, shall not bee sayd by the Law to bee at large, or at his owne liberty. Thus farre Master *Manwood*. The Myrrhor of Justices maketh a difference al-

so betweene pledges and Mainpernours, saying, that pledges are more generall, and that Mainpernours are body for body, *lib. 2, cap. de Tressesse venniall.* and *lib. 3, cap. des Pledges & Mainpernours.* When Mainprises may bee graunted, and when not, see *Cromptons Justice of peace, fol. 136,* &c. usque 141. and *Lambert, Eirenarch.* *lib. 3, cap. 2.* pag. 336, 337, 338, 339, 340. See also *Britton* fo. 73, a. *cap. des Pledges & Mainpernours.* The authour of the Mirrour of Justices sayth, that Pledges be those that bayl or redeeme any thing but the body of a man: and that Mainpernours bee those that free the body of a man. And that pledges therefore belong properly to reall and mixt actions, and Mainpernours to personall.

Maintenance (manutentio, vel manutentias) is a French word, and signifieth an upholding of a cause or person, metaphorically drawne from the succouring of a young childe that learneth to goe by ones hand. In our common law it is used in the evill part, for him that seondeth a cause depending in suite betweene others, either by lending of money, or making friends for either party, toward his helpe. anno 32 Hen. 8, ca. 9: And when a mans act in this kinde is by Law accounted Maintenance,

nance, and when not. See *Brooke*, *titulus Maintenance*: and *Kitchin* fo. 202, & seq. and *Fitzb. Natural brew.* fo. 172. and *Cromptons Jurisdictions*, fol. 38. The writ that lieth against a man for this offence is likewise called Maintenance: *Tearmes of the Law*, *verbo Maintenance*. Speciall Maintenance, *Kitchin* fo. 204, seemeth to be maintenance most properly so termed. Of this see *Cromptons Justice of peace*, fo. 155 b. and the new booke of Entries, *verbo Maintenance*. Maintenance, v. *Novos terminos juris*.

Make (*facere*) signifieth in the Common law, to perform or execute: as to make his law, is to performe that law which hee hath formerly bound himselfe unto, that is, to cleare himselfe of an action commenced against him by his oath, and the oathes of his neighbours. *Old Nat. brev.* f. 161. *Kitchin* fo. 192. Which law seemeth to be borrowed of the Feudists, who call these men that come to sweare for another in this case, *Sacramentales*. Of whom thus sayth *Hotoman*, in *verbis Fendal. Sacramentales à Sacramento*, id est, *juramento dicebantur ii, qui quamvis rei de qua ambigebatur, testes non fuissent, tamen ex ejus, cuius res agebatur, animi sententia, in eadem que ille verba jurabant: illius videlicet probitate & innocentia confisi*. Nam tuum demum

adbibebantur, cum testes nulli extarent. See the rest. The formall words used by him that maketh his Law, are commonly these: Hearc O ye Justices, that I doe not owe this summe of money demanded, neither all nor any part therof, in manner and forme declared: so helpe mee God, and the contents of this booke. To make services or custome, is nothing els but to performe them. *Old Nat. br.* fo. 14. To make oath, is to take oath.

Makent, in the statute called the confirmation of the liberties of, &c. an. 29 E. I. ca. 7. is interpreted to be a tolle of 40 shillings for every sacke of wooll. *Stow* in his Annals calleth it a *Maletot*, pag. 461. See also the statute de *Talagio non concedendo*, an. 35 e*jusdem stat.*

Malin, see *Mark*.

Manbore signifieth a pecuniarie compensation for killing of a man. *Lambert* in his *Exposition of Saxon words*, *verbo Æstimatio*. Of which reade *Roger Hoveden* also, in *parte poster. suorum annal*, f. 344, a, b.

Mandamus, is a writ that lieth after the yeare and day, whereas in the meantime the writ called *Diem clausit extremum*, hath not beene sent out to the Escheatour, for the same purpose for the which it should formerly have beene sent forth. *Fitz. Nat. br.*

br. fol. 253. B. See *Diem clausit extremum*. *Mandamus* is also a charge to the Sheriffe, to take into the Kings hands, all the lands and tenements of the Kings widow, that against her oath formerly given, marrieth without the Kings consent, *Register*, fol. 295. b. See *widow*.

Mandatum, is a commandment judicall of the King, or his Justices, to have any thing done for the dispatch of justice, whereof you shall see diversitie in the Table of the Register judicial. *verbo Mandatum*.

Manser (*Manerium*) seemeth to come of the French (*mansoir*. i. *domicilium, habitatio*) M. *Skene de verbo significacione, verbo Manerium*, saith it is called *Manserium*, *quasi Manurium*, because it is laboured with handie-worke by the Lord himselfe. It signifieth in our common law, a rule or government, which a man hath over such as hold land within his fee. Touching the originall of these maners, it seemeth that in the beginning, there was a certaine compasse or circuite of ground, granted by the King unto some man of worth (as a Baron or such like) for him and his heires to dwell upon, and to exercise some jurisdiction more or lesse within that compasse, as hee thought good to grant, Performing him such services, and

paying such yearlye rent for the same, as hee by his grant required: and that afterward this great man parcelled his land to other meaner men, injoyning them againe such services and rents, as hee thought good, and by that meanes, as hee became tenent to the King, so the inferiours became tenents unto him. See *Perkins Reservations* 670. and *Andrew Horns Booke intituled the Mirroure of Justices*, li. 1. ca. du. *Roy Alfred*. See the definition of a *Manser*. *Fulb.* fol. 18. And this course of benefiting or rewarding their Nobles for good service, have our Kings borrowed from the Emperours of Rome, or the Lombard Kings, after they had settled themselves in *Italy*, as may well appeare by *Antonius Continus in methodo feudorum*, ca. 1. *de origine, & libris Feudorum*. And I find that according to this our custome, all lan ds holden in fee throughout France, are divided into *Fiez* and *arrierfiez*: whereof the former are such as are immediately granted by the King, the second such as the Kings feudaries doe againe grant to others, *Gregorii Syntagma*. lib. 6. ca. 5. nn. 3. But the inconstancie of mans estate, and the mutability of time hath brought to passe, that those great men, or their posteritie, have alienated these Mansions, and lands so given them

them by their Prince, and others that had none, have by their wealth purchased many of them: And againe, that many for capitall offences, have forfeited them to the King, and that thereby they still remaine in the Crown, or are bestowed againe upon others: so that at these dayes many be in the hands of meane men, such as by their skill in Law, or Phisicke, by Merchandize, Grazing, or such other good husbandry, have gathered wealth, and enabled themselves to purchase them of those, that by descent received them from their ancestors in greater abundance, than wit to keep them. But whosoever possessest these maners, the libertie belonging unto them is reall and prediall; and therefore remaineth still, though the owners be changed. In these dayes a Maner rather signifieth the Jurisdiction and royaltie incorporeall, than the land or site. For a man may have a maner in grosse (as the law termeth it) that is, the right and interest of a Court Baron, with the perquisites thereunto belonging: and another or others have every foot of the land thereunto belonging. *Kirkchin, fol. 4. Broke hoc titulo per 20. tum. Bracton, lib. 4. ca. 31. nro. 3.* divideth manerum, in capitale & non-capitale. See Bracton, lib. 5. tractat. 5. ca. 28. nu. pri. See Fee.

The new expositor of Law terms saith, that Manour is a thing compounded of divers things, as of a house, land, earable, pasture, meadow, wood, rent, advouzen, Court Baron, and such like. And this ought to be by long continuance of time, to the contrary whereof mans memory cannot discerne, &c.

Mansion (*Mansio*) as Bracton defineth it, *lib. 5. cap. 28. nu. pri.* is a dwelling consisting of one or more houses, without any neighbour. And yet hee granteth forthwith, that *Mansio Mansioni possit esse vicinata*. I find it most commonly used for the Lords chiefe dwelling house within his fee, whether it have neighbours adjoyning or not, otherwile called the capitall mesuage. *Bracton, li. 2. ca. 26.* or the chiefe Maner place. *Mansio* amongst the ancient Romanes, was a place appointed for the lodging of the Prince, or Souldiers in their journey, furnished with convenient entertainment by the neighbours adjoyning. And in this sence we reade *primam mansionem*, for the first nights lodging, and so in order. It is probable that this word (*Mansion*) doth in some construction signifie so much land, as Beda calleth *Familiam* in his Ecclesiastical History. For Master Lambert in his explication of Saxon words, verb. *Hida*

terre, sayth, that that which hee calleth *familiam*, others since call *Mancunem*, vel *mansiā*. *Mansus* and *Mansum* I reade of in the Feudists, which as Holmian saith, in *verbis feudalibus*, est neque *domus*, neque *ares*, neque *hortus*, sed *ager certi modi ac mensurae*. And againe, in *Commentariis Fundorum*, lib. p. tit. 4. vers. de *Manso*. *Agri deserti & inculti certa mensura dabantur cultoribus quasi in emphytefisi, ut culti & meliorati, feudi jure à vassallis possiderentur*. In *contractu autem vasalli non nunquam incrementum*, i. *meliorationem omnem sive recipiebant, sive per culturam, sive per inedificationem ea melioratio fuerit, &c.* And *Cassaneus, de consuetud. Burg. pa. 1195*, defineth it thus: *Mansus est, quantum quis cum uno pari boium laborare possit*. Proving it out of *Bartolus, in lib. si ita n. de auro & argen. legato: in fine legis*. Reade Master *Skene, de verb. signif. verbo Mansus*. I reade the Latine word *manzia* in the same signification; as namely in the Charter graunted by King *Kanulphus* to *Ruchin* the abbot of Abington, which Sir *Edward Cooke* setteth downe in his booke *de Jure regis ecclesiastico*.

Manslaugher (*homicidium*) is the unlawfull killing of a man without prepensed malice: as when two, that formerly meant no harme one to another, meet

together, and upon some sudden occasion falling our, the one killeth the other. *W^es^t parte 2, symb. titulo Indictement, sett. 44.* It differeth from murther, because it is not done with foregoing malice: and from chance-medly, because it hath a present intent to kill. And this is felony, but admitteth Clergy for the first time, *Stawnf. pl. Cor. li. 1, ca. 9.* and *Britton cap. 9.* It is confounded with murther in the statute, anno 28 Ed. 3. ca. 11. *Item 10 Edward VI. cap. 13.*

Mantyle (*mantile*) commeth of the French *mantem*, and signifieth with us a long robe, anno 24 H. 8, ca. 13. *Item 10 Edward VI. cap. 13.*

Manueptio, is a writ that lieth for a man, who taken for suspition of felony, and offering sufficient Bayle for his appearance, cannot bee admitted thereunto by the Sheriffe, or other having power to let to mainprise. *Fitzb. Nat brev. fo. 249.* See Mainprise. How diversly it is used see the Register originall, in the Table.

Manuel (*manuelis*) is a thing whereof present profit may bee made, *Stawnf. prerogativ. fo. 54.* And a thing not manuell, is that whereof no present profit may be made, but herafter when it falleth, *ibid.*

Mansumission (*manumissio*) is a freeing of a Villein or slave out of his bondage. The form of this

this in the time of the Conqueror, Master Lambert in his *Ælfric's milia* fol. 126, setteth downe in these words: *Si quis velit servum suum liberum facere, tradat eum vicecomiti, per minimum dexteram; in pleino comitatu, et quietum illum claudere debet a iuglo servitutis sua per manumissionem: & ostendat ei liberas portas, & vias, & tradat illi libera armis, scilicet lanceam & gladium: & deinde liber homo efficitur.* Some also were wont to bee manumitted by Charter of manumission: *Vide Brooke, titulus Villenage*, fol. 305. The new Expositour of Law Ternes maketh two kindes of manumission: one expressed, another implied. Manumission expressed, is when the Lord maketh a Deed to his Vileine, to infranchise him by this word *Manumittere*. The manner of manumitting in old time was thus: The Lord in presence of his neighbours tooke the bond-man by the head, saying, I will that this man be free; and therewith shewed him forward out of his hand. Manumission implied is, when the Lord maketh an obligation for payment of money to him at a certaine day, or saith him where hee might enter without suite, or graunteth him an Annuity, or leaseth land unto him by Deed, for yeares, or for life, and such like.

Manutententia is a writ used in case of maintenance. Reg. originall, fo. 182 & 189. See *Maintenance*.

Marches (*Marchia*) bee the bounds and limits betweene us and Wales, or betweene us and Scotland: anno 24 Hen.8, c.9. Cambd. pag. 453 & 606. and the marches of Scotland are divided into West and middle Marches, anno 4 Housie, 5, cap. 7. et anno 22 Edward. 4, cap. 8. It seemeth to be borrowed from the German *March*, i. lines: *Carabdens Briton* pa. 27. or it may be from the French *Marque*, id est *sigillum*, beeing the notorious distinction of two divers countries or Territories. It is used in the statute, anno 24 Hen.8, c. 12, generally for the precincts of the kings dominions.

Marchers, bee the noblemen dwelling on the marches of Wales or Scotland; who in times past (as Cambden sayth, pag. 453) had their privat lawes, much like as if they had beeene Kings, which now bee worne out. Of these Marchers you may read, anno 2 H.4, c. 18. & anno 26 Hen.8, c. 6. and anno 1. Edward. 6, c. 10, where they are called Lord Marchers. See an. 27 H.8, c. 26, how these were extinguished.

Marshal (*Marescallus*) is a French word, signifying as much as

as *Tribunus scelerum*, or *Tribunus militum* with the auncient Romanes, or Πολεμωχ with the Grecians, or ιππωχ, *Tiraquel de nobilitate*, c.8, p.42, n. 17. The French word may seeme also, among many other that they have, to proceed from the Germane Marschalk, id est, *equitum magister*: which *Hotoman*, in *verbis fidelibus, verbo Marschallus*, deriveth from the old word March, signifying an house. With whom agreeeth *Lupanus, de Magistrisbus Francie*, lib. 1, cap. Marshallus. Others make it of these two Saxon words, Mar, id est, *equns*, and *scaleb*, id est, *prefectus*: Or as Master *Verstegan* sayth, from Mare, the generall appellation of all horses, as *Horse* is now in English: and *Scalc*, which in the ancient language of the Netherlanders, he affirmeth to signifie a kinde of servant, as *Scalco* doth at this day among the Italians, being originally a Dutch word. With us there bee divers officers of this name, but one most noble of all the rest, who is called Lord or Earle Marshall of England; of whom mention is made in divers statutes, as anno 1 H.4. cap. 7 & 14. and anno 13 Rich. 2, ca. 2. His office consisteth especially in matters of warre and Armes, as well with us, as in other countries; wherof you may reade in *Lupanus*,

ubi supra. : and *Tilius lib.2, cap. de Constabili, Mariscallo, &c.* But he that would know the office of our Lord Marshall, had need, beside the few statutes which concerne him, to reade his Commission, and also to have accessse to the heralds, who out of their antiquities are able to discover much, that by prescription belongeth unto this office. The next to this is the Marshall of the Kings house, whose especiall authority is, according to *Britton* and M. *Gwin*, in the preface to his reading, in the Kings place to heare and determine all plees of the Crowne, and to punish faults committed within the verge, and to heare and determine suits betweene those of the Kings houshold, and others within the verge, *Cromp. Jurisdic.* fo. 102. Of him you may reade, *Fitzb. Nat. Brev.* fo. 241, b. and anno 18 Edward. 3. *statut.* 2, ca.7. and an. 27 Edw. 3, *stat.* 2, ca.6. and an. 2 H.4, ca.23. and an. 15 H.6, ca.1. *Fleta* sayth, That the office of the Marshall of the kings house belongeth to the Earle of Norffolke in fee, and that hee may appoint, with the Kings consent, a Knight under him to execute the office: which office hee also describeth to bee especially, to execute the judgments and decrees of the Steward, and to have the keeping of the prisoners, li.2, c.4. and reade further of his office in the fift chap. of

of the said Booke, which is to dispose of the Lodging in the Kings housshould under the Chamberlaine, and to cleere the Verge of Strumpets, &c. anno 5. H. 3. statut. 5. Then be there other inferiour officers of this name: as Marshall of the Justices in Eyre, anno 3. Ed. 1. ca. 19. Marshall of the Kings Bench, anno 5. Ed. 3; ca. 8. and this is hee which hath the custodie of the prison, called the Kings Bench in Southwarke, Fitzherb. nat. brev. fol. 251. I. And these inferiour Marshals be either *ad placitum*, or in fee, Kitchin, fol. 143. I finde also in Flets, lib. 2. cap. 15. mention of a Martiall of the Kings Hall, whose office is, when the tables be prepared, and clothes laid, to call out both those of the housshould and strangers, according to their worth, and decently to place them, to reject unworthy persons, to know the number of the Hall, and to testisie it at the next account, to see dogs kept out, to save the almes from filching, to see silence kept, and every man competently served with meate and drinke, and when the Court removeth, to appoint every one of the housshould his lodging. There is also a Marshall of the Eschequer, anno 51. H. 3. stat. 5. to whom the Court committeth the custodie of the Kings debtors during the Terme time, to the

end they may be farther imprisoned, if they cleere not their debts. He also assigneth Shiriffes, Escheators, Customers, and Collectors, their Auditours before whom they shall account. Hee hath all inquisitions taken before Escheators *virtute officii*, delivered unto him, to be delivered by him to the Treasurers Remembrancer.

Mareshallee (*Marescallia*) is the Court of the Marshall, or (word for word) the seat of the Marshall; of whom see Cromptons Jurisd. fol. 102. It is also used for the prison in Southwarke, the reason whereof may be, because the Marshall of the Kings house, was wont perhaps to sit there in Judgement. See the statute, anno 9. Ric. 2. ca. 5. & anno 2. Hen. 4. ca. 23.

Martiell law, is the law that dependeth upon the voice of the King, or the Kings Lievetenant in warres. For howbeit, the King for the indifferut and equal temper of lawes to all his subjects, do not in time peace make any lawes, but by the consent of the three estates in Parliament: yet in wars, by reason of great dangers rising of small occasions, he useth absolute power: in so much as his word goeth for Law. And this is called Martiall law, *Smith de Repub. Angl.* lib. 2. ca. 3. See *Law of Arms*.

Marriage (*Maritagium*) signifieth not onely the coupling together of man and wife, but also the interest of bestowing a ward or a widow in marriage. *Magna charta*, cap. 6. anno 9. Hen. 3. and *Braetton*, lib. 2. cap. 3. and also it signifieth land given in marriage, *Braetton*, lib. 2. cap. 34, & 39. And in this signification the same Author saith, that *Maritagium est aut liberum aut servitio obligatum*. lib. 2. cap. 7. num. 3. & 4. *Liberum maritagium dicitur*, ubi donator vult, quod terra sic data, quieta sit & libera ab omni seculari servitio, quod ad Dominum fendi possit pertinere: & ita quod ille, cui sic data fuerit, nullum omnino inde faciat servitium usque ad tertium bæudem; & usque ad quartum gradum: ita quod tertius bædes sit inclusivus. See the rest. See also *Skene de verbo*, significativa. verbo *Maritagium*, who is worth the reading.

Maritagio amiso per defaltam, is a writ for the tenant in franck marriage, to recover lands, &c. whereof he is deforced by another, Reg. fol. 171.

Maritagio forisfacto, is a writ. See *Forisfactura Maritagii*.

Marke (*merca*) commeth of the Saxon (*Mearc*) which signifieth a piece of money worth thirty Silver pence. *Lamb. explic.* of Saxon words, verbo *Asancusa*: what it now signifieth in our coine, every man knoweth.

But in ancient times I find a marke of gold, which was the quantitie of eight ounces. *Stowes annals*, pag. 32. and againe, pag. 691. 12. markes of gold Troy weight, the which was 200. pounds of English mony, after which rate every mark valued 16 pounds 13 shillings foure pence. *M. Skene de verbo*. signif. verbo *Merke*, saith, that in tractatu de ponderibus & mensuris, a Marke signifieth an ounce weight, or halfe a pound, whereof the Dram is the eighth part, like as the ounce is the eighth part of a Marke; citing *Cassaneus de consuetud. Burgund.* Rub. prim. §. 7. verbo. *Solz Turnoys*. biis verbis. *Solidus* (inquit) in jure capitul pro auro, quorum 72. faciunt libram auri, & duodecim uncias faciunt libram, & octo unciae mercam.

Market (*mercatus*) commeth of the French (*marche*. i. emporium, forum nudinarium) it signifieth with us, the same thing, and also the liberty or priviledge whereby a Towne is inable to keepe a Market, *Old. nat. br. fol. 149.* So doth *Braetton* use it, lib. 2. cap. 24. num. 6. & lib. 4. cap. 46. where hee sheweth that one Market ought to be distant from another; *Sex leucas & dimidiam, & tertiam partem dimidiare*. The reason thereof both hee and *Fleta* giveth in these words: *Quia omnes rationabiles dietæ constant ex*

20. milliaribus. Dividatur ergo dieta in tres partes: prima autem matutina detur euntibus versus mercatum: secunda detur ad emendum & vendendum: que quidem sufficere debet omnibus, nisi sint ferre mercatores statarii qui merces deposituerint & exposuerint venales, quibus necessaria erit prolixior mora in mercatu: & tertia pars relinquitur redeuntibus de mercata ad propria. Et que quidem omnia necesse erit facere de die, non de nocte, propter insidiias & incursiones latronum, ut omnia sint in tacto, &c. lib. 4. c. 28. §. Item resert.

Marle, is a kind of stone or chalke, which men in divers countries of this Realme, cast upon their land to make it the more fertile. It is some where called *Malin*. anno 17. *Edvard*. 4. c. p. 4.

Marque, seemeth to bee a French word signifying *notam*, *vel signum*, or else to come from the German (*march i. limes*) it signifieth in the ancient statutes of our land, as much as *reprisals*, as anno 4. *H. 5. c. 2. 7.* *Marques* and *Reprisals* are used as *Synonyma*. And letters of *Marques* are found in the same signification in the same chapter. The reason may be, because the griefes whereupon these letters are sought and granted, are commonly given about the bounds and limits of every countrey: or at

least the remedy for the same is likest there to be had by some soudaine inrode, and happing of such recompence of the injurie received as may most conveniently be lighted upon. See *Reprisals*. See *Marches*.

Marquis (*Marchio*) by the opinion of *Hotom*. verbo *Marchio*, *in verbis feudalibus*, commeth of the German *March i. limes* signifying originally as much as (*Custos limitis*) or (*comes & praefectus limitis*): of these *Zasins* thus wri-
teth: *de Marchione nihil comprehendit, nisi quod Gothicum vocabulum putamus*. And afterward thus: *Huiusmodi Marchionum* (five ut nos appellamus) *Margraphiorum origo in limitaneos, prepositos, five duces reserenda: Margrabil dicti quod limitibus, quos vulgo marken appellamus, graphii, id est, prepositi fuerant, &c.* For in those territories, that have naturally no bounds of great strength or defence, there is need of wise and stout men toward their borders, for the keeping out of neighbour enemies. But here in England though wee have a Lord Warden of the marches northward, and a Warden of the cinque ports toward the South-east, and were wont to have *Lord Marchers* betweene us and Wales that served this turne, yet those which we call *Marquises*, are Lords of more dignity, without any such

charge ; and are in honour and account next unto Dukes. At this day I know but one in England, and that is the Marquis of Winchester, beeing of that noble Family of the Powlets. See *Cas-saneus, de consuetud. Burg.* pag. 15.

Marrow, was a Lawyer of great account that lived in *Henry* the seventh his dayes, whose learned Readings are extant, but not in print. *Lambert Eiren. lib. i. ca. i.*

Martens, see *Furrs.*

Master of the Rolles (*M i g i s t e r R o t u l o r u m*) is an Assistant unto the Lord Chauncellour of England, in the high Court of Chauncery ; and in his absence heareth causes there, and giveth Orders, *Cromp. Jurisdiction*, fol. 41. His title in his Patent, as I have heard, is, *Clericus parvus bage, Custos rotulorum, & domus conversorum*. This *D o m u s c o n v e r s o r u m* is. the place where the Rolles are kept, so called because the Jewes in ancient time, as they were any of them brought to Christianity, were bestowed in that house separately from the rest of their Nation. But his office seemeth originally to have sprung from the safe keeping of the Rolles or Records of indictments passed in the Kings Courts , and many other things. He is called Clerke of the Rolles, *anno 12 Ric. 2, c. 2.*

and in *Fortescue* his booke, *ca. 24* ; and nowhere Master of the Rolls, untill *an. 11 H. 7, cap. 20.* and yet *an. 11, ejusdem, cap. 25.* hee is also called Clerke. In which respect Sir *Thomas Smith*, *l. 2. c. 10, de Repub. Angl.* well sayth, That hee might not unsightly be called *Custos Archivorum*. Hee seemeth to have the bestowing of the offices of the sixe Clerkes, *an. 14 & 15 Hen. 8, ca. 8.*

Master of the Mint, *an. 2 Hen. 6, ca. 14.* he is now called the warden of the Mint, whose office see in Mint.

Master of the Court of Wards and Liveries, is the chiefe and principall officer of the Court of Wards and liveries, named and assignd by the King, to. whose custody the seale of the Court is committed. Hee at the entring upon his office taketh an oath before the Lord Chauncellour of England, well and truly to serve the King in his office, to minister equall justice to rich and poore, to the best of his cunning, wit, and power, diligently to procure all things which may honestly and justly bee to the kings adyantage and profit, and to the augmentation of the rights & prerogative of the crown, truly to use the kings seale appointed to his office, to endeavor to the uttermost of his power to see the King justly answered, of all such profits, rents, revenues, and issues,

as shall yearly rise, grow, or bee due to the King in his office from time to time, to deliver with speed such as haue to doe before him ; not to take or receive of any person any gift or reward in any case or matter depending before him, or wherein the King shall bee paty, whereby any prejudice, losse, hinderance, or disherison shall bee or grow to the King. anno 33 H.8, ca.33.

Master of the horse, is he that hath the rule and charge of the Kings stable, beeing an office of high account, and alwayes bestowed upon some nobleman both valiant and wise. This officer under the Emperours of Rome was called *comes sacri stabuli*. The master of the horse is mentioned, anno 39 Eliz. cap.7, and anno 1 Edward 6, cap.5.

Master of the Posts, is an officer of the kings Court, that hath the appointing, placing and displacing of all such through England as provide post horse for the speedy passing of the Kings messages and other businesse, in the thoro-fayre townes where they dwell : as also to see that they keepe a certaine number of convenient horses of their owne, and when occasion is, that they provide others wherewith to furnish such as have warrant from him to take post-horses, either from or to the seas, or other bor-

ders or places within the Realme. Hee likewise hath the care to pay them their wages, and make their allowance accordingly as hee shall think meet. This officer is mentioned, an.2 E.6 ca.3.

Master of the Armoury, is he that hath the care and oversight of his Majesties armour for his person or horses, or any other provision or store therof in any standing Armouries : with commaund, and placing or displacing of all inferiour officers thereunto appertaining. Mention is made of him, ann. 39 Elizab. ca.7.

Master of the Jewell-house, is an Officer in the Kings houſhold of great credit, being allowed bouge of Court, that is, dyet for himſelfe and the inferiour officers, viz. Clerkes of the Jewell house, and a ſpeciall lodging or Chamber in court, having charge of all plate of gold, of silver double or parcell guilt, used or occupied for the kings or queens bord, or to any officer of account attendant in court, and of all plate remaining in the Tower of London, of chains and loose jewels not fixed to any garment. Mention is made of this officer, an.39 Eliz. ca.7.

Master of the Kings Houſhold, (*Magister hoffitii*) is in his just title called grand Master of the

Kings houſhold, and beareth the ſame office that hee did , that was wont to bee called Lord Steward of the Kings moſt honou- rable houſhold , anno 32. Hen. 8. cap. 39. Whereby it appeareth, that the name of this Officer was then changed , and Charles Duke of Suffolke , President of the Kings Councell , then en- joying that office , was ſo to bee called ever after , ſo long as hee ſhould poſſeſſe that of- fice.

Master of the ordinance , anno 39. El. ca. 7. is a great officer , to whose care all the Kings Ordinance and Artillery is committed , being ſome great man of the Realme , and expert in mar- ſhall affaires.

Master of the Chancerie , (*Magister Cancellarie*) is an af- fiftant in Chancerie to the Lord Chanceler , or Lord Keeper of the Broad Seale in matters of judgement. Of theſe there bee ſome ordinarie , and ſome extra- ordinarie : of ordinarie there be twelve in number , whereof ſome ſit in Court every day throughout each Terme , and have committed unto them (at the Lord Chanceler's discretion) the interlocutorie report , and ſometimes the finall determination of cauſes there de- pending.

Master of the Kings Musters , is a martiall officer in all royll

armies moſt neceſſarie , as well for the maintaining of the forces compleate , well armed and trained , as alſo for prevention of ſuch frauds , as otherwiſe may exceedingly waste the Princes Treasure , and extremely wea- ken the forces. He hath the over- ſight of all the Captaines and Bands , and ought to have at the beginning delivered unto him by the Lord Generall , perfect Lists and Roles of all the forces both horſe and foot , Officers , &c. with the rates of their al- lowances ſigned by the Lord Generall , for his direcſion and diſcharge , in ſignifying war- rants for their full pay. This Officer is mentioned in the ſtatute , anno 2. Edw. 6. cap. 2. and *Muster master generall* , anno 35. Elizab. cap. 4. who ſo deſireth to reade more of him , let him have recourse to *Master Digs his Stratioticos*.

Master of the Wardrobe (*ma- gister garderobæ*) is a great and principall officer in Court , ha- ving his habitation and dwel- ling house belonging to that of- fice , Called the *Wardrobe* neere *Puddle-wharfe* in *London*. Hee hath the charge and cuſtodie of all former Kings and Queenes ancient robes remaining in the Tower of *London* , and all Hang- ings of *Arras* , *Tapeſtrie* , or the like , for his Majesties houses , with

with the bedding remaining in standing wardrobes, as *Hampton court, Richmond, &c.* He hath also the charging and delivering out of all either Velvet or Scarlet allowed for Liveries, to any of his Majesties servants of the Privie Chamber, or others. Mention is made of this officer, anno 39. *Eliz. cap. 7.*

Matter in deed, and matter of record, are said to differ, *Old nat. br. fol. 19.* where matter in deed, seemeth to be nothing else but a truth to be proved, though not by any Record: and matter of Record, is that which may be proved by some Record. For example: if a man be sued to an exigent, during the time hee was in the Kings warres, this is matter in deed, and not matter of record. And therefore (saith the booke) hee that will alledge this for himselfe, must come before the *Scire facias* for execution be awarded against him. For after that, nothing will serve but matter of Record; that is, some errour in the Processe appearing upon the Record. *Kitchin, fol. 216.* maketh also a difference betweene matter of Record, and a specialtie, and nude matter; where he saith, that nude matter is not of so high nature, as either a matter of Record, or a specialtie, otherwise there called matter in deed; which maketh mee

to thinke, that nude matter is a naked allegation of a thing done, to be proved onely by witnessses, and not either by Record, or other specialtie in writing under Seale.

Maugre, is shuffled up of two French words (*Mal*) and (*Gre*) i. *animo iniquo*) it signifieth with us, as much as in despight, or in despight of ones teeth, as the wife maugre the husband, *Littleton, fol. 124.* that is, whether the husband will or not.

Meane (*Medius*) signifieth the middle betweene two extremes, and that either in time or dignitie. Example of the first: His action was meane betwixt the disseisin made to him and his recoverie: that is, in the interim. Of the second there is Lord Meane and Tenant. See *Mesn.*

Mease (*Mesnagium*) seemeth to come of the French (*Maison*) or rather (*Meix*) which word I find in *Cassaneus de consuet. Burgund. pag. 1195.* and interpreted by him *Mansus*: what *Mansus* is, see *Mansion*. It signifieth a house, *Kitch. fol. 239.* and *Fitz.nat.br. fol. 2.C.* See *Mesnage*.

Medlefe, *Cromptons Justice of peace. fol. 193.* is that which *Brandon calleth* (*medletum*) *li. 3. tract. 2. cap. 35.* It seemeth to signifie quarels, scuffling, or brawling, and to be derived from the French

(meſter. i. miscere, turbare.)

Meere (Merus) though an Adjective , yet is it used for a Substantive , signifying meere right , *Qd natura brev.* fol. 2. in these words : And know yee, that this Writ hath but two ifſues : that is to ſay , joyning the miſe upon the meere : And that is , to put himſelfe in the great affiſe of our Soveraigne Lord the King , or to joyne battell. See Mife.

Meſurement. See Admeſurement.

Medietas lingue , ſignifieth an Enquest empaneled upon any caufe , whereof the one halfe conſiſteth of Denizens , the other of Strangers . It is called in Engliſh the halfe tongue , and is uſed in Plees , wherein the one partie is a Stranger , the other a Denizen . See the ſtatute , anno 28. Ed. 3. cap. 13. & anno 27. ejusdem , ſtatut. 2. cap. 8. commonly called the ſtatute of the Staple , & an. 8. H. 6. cap. 29. & anno 2. H. 5. cap. 3. & anno 11. H. 7. cap. 21. & anno 1. & 2. Phil. & Mar. cap. 8. And before the firſt of theſe ſtatutes was made , this was wont to be obtained of the King by grant made to any company of Strangers , as Lombards , Almaines , &c. Stawnford , pl. cer. lib. 3. cap. 7.

Medio aequitando , is a writ judiciall , to diſtraine a Lord for

the acquiting of a meane Lord from a rent , which hee formerly acknowledgeth in Court not to belong unto him , *Register judiciale*, fol. 29. b.

Melius inquirendo , it a writ that lieth for a ſecond inquirie , as what lands and tenements a man died feiſed of , where partiall dealing is ſuſpected upon the writ , *Diem clausit extreum.* *Fitzb.* nat. br. fol. 255.

Merchenlage , was one of the three ſorts of lawes , out of which the Conquerour framed Lawes unto us , mingled with thoſe of Normandie , *Camd. Britan.* pag. 94. who alſo , pag. 103. sheweth that in the yeere of our Lord 1016. this land was divided into three parts , whereof the West Saxons had one , governing it by the Lawes called West Saxon Lawes , and that conteined theſe nine Shires , Kent , Southſex , Southrey , Barkefshire , Hampshire , Wiltsshire , Somerſet , Dorſet , and Devonshire . The ſecond by the Danes , which was governed by the Lawes called Denelage , and that contained theſe fifteen Shires : Torke , Darby , Notingham , Leicſter , Lincolne , Northampton , Bedford , Buckingham , Hartford , Eſſex middleſex , Northf. Southf. Cambridge , Huntington . The third was poſſeſſed and governed by the Mercians , whose Law was called Merchenlage ; which were theſe eight

eight, Gloucester, Worcester, Hereford, Warwicke, Oxenfورد, Chester, Salop, and Stafford. See Law.

Mercy (*Misericordia*) signifieth the arbitrement or discretion of the King or Lord, in punishing any offence, not directly censured by the law. As to be in the grievous mercie of the King, anno 11. H. 6. cap. 6. is to be in hazard of a great penaltie. See *Misericordia*.

• *Measondure*, (*domus Dei*) commeth of the French (*maison de dieu*) by which names divers Hospitals are named. You find the word, anno 2. & 3. Philip. & Mar. cap. 23. in fine.

• *Mese*. See *Mease*.

Mesn (*medius*) seemeth to come from the French (*mainse. i. minor nati*) it signifieth in our Common Law, him that is Lord of a manour, and thereby hath Tenents holding of him, yet holding himselfe of a Superiour Lord. And therefore it seemeth not absurdly to bee drawne from the French (*mainse*) because the Lordship is created after the higher, whereof hee holdeth. Mesn also signifieth a writ, which lyeth where there is Lord, mesn, and tenent, the tenent holding of the mesn by the same services, whereby the mesn holdeth of the Lord, and the tenent of the mesn is diststrained by the superi-

our Lord, for that his service or rent, which is due to the Mesn. *Fitzherbert*, nat. brev. fol. 135. See *Mesnaltie*.

Mesnaltie (*medietatis*) commeth of Mesn, and signifieth nothing but the right of the Mesn: as, the Mesnaltie is extinct, *Old nat. br. fol. 44.* if the Mesnaltie descend of the tenant, *Kitchin*, fol. 147. For farther understanding whereof, take these words out of the Customarie of Norm. *Medietate tenentur feuda, quando aliqua persona intervenit inter Dominum & tenentes. Et hoc modo tenent omnes postnati, mediane ante nato.*

Messenger of the *Exchequer*, is an officer there, of which sort there be foure in that Court, that be Pursuivants attending the lord Treasurer, to carry his Letters & Precepts. See *Pursuivant*.

Message (*mesuagium*) is a dwelling house, *West*, parte 2. symbol. *titulo Fines*. *Sec. 26.* But by the name of a mesuage may passe also a Curtilage, a Garden, an Orchard, a Dove house, a Shop, a Mill, as parcell of an house, as he himselfe confirmeth out of *Bracon*, lib. 5. cap. 28. *Sec. prim.* and *Plowden*, fol. 199, 170, 171: and of himselfe hee avoucheth the like of a Cottage, a Tost, a Chamber, a Cellar, &c. yet may they bee demanded by their single names. *Mesuagium* in Scotland, signifieth the principall dwelling

place or house within a Baronie, which in our land is called a Manor house, *Skene de verb. signific. verbo*, *Mesuagium*, where he citeth *Valentine Leigh*, that in his Booke of Survey hee affirmeth *Mesuagium*, to be the tenement or land earable; and the dwelling house or place, or Court Hall thereof; to be called the Site, in Latine called *Situs*.

Miles (milliare) is a quantitie of a thousand paces, otherwise described to containe eight furlongs, and every furlong to containe forty lugs or poles, and everie lug or pole to containe 16. foot and a halfe, anno 35. *Eliz.* cap. 6.

Mildervix, anno 1. *Jacobus*, cap. 24.

Mindbruech, is hunting of honour and worship. *Saxon* in his description of Engl. ca. 71.

Miniver. See *Furre*.

Minoverie, anno 7. R. 2. ca. 4. seemeth to bee compounded of two French words (*main*. i. *manus*) and (*ouvrir*. i. *operari*) and to signifie some trespass or offence committed by a mans handie-worke in the Forest, as an engine to catch Deere. *Briston* useth the verbe (*meinoverer*) for to occupie and manure land, cap. 40. and cap. 62. *main-ovre*, for handie worke. It is not unlike, that our English (*manure*) is abbreviated of the French.

Mint, commeth of the Germane word (*meunk*. i. *peunia*, *moneta*) and it signifieth with us, the place where the Kings Coine is formed, be it Gold or Silver, which is at this present, and long hath beene, the Tower of London, though it appeare by divers Stories, and other Antiquities, that in ancient times, the Mint hath been also at *Calein*, an. 21. R. 2. cap. 16. & anno 9. H. 5. stat. 5. cap. 5. The Officers belonging to the Mint, have not beene alwayes alike. At this present they seeme to be these: The Warden, who is the chiefe of the rest, and is by his office to receive the Silver of the Goldsmiths, and to pay them for it, and to over-see all the rest belonging to this function. His fee is an-hundred pounds per annum. The Master-worker, who receiveth the Silver from the Warden, causeth it to be melted, and delivereth it to the moniers, and taketh it from them againe, when it is made. His allowance is not any set fee, but according to the pound weight. The third is the Controller, who is to see that the money be made to the just assise, to over-see the officers, and contrall them, if the money be not as it ought to be: his fee is one hundred markes per annum. Then is the Master of the Assay, who weigheth the silver, and seeth whe-

whether it be according to stan-dard : his yearly fee is also an hundred markes. Then is the Auditour to take the accoimpts, and make them up Auditor-like. Then is the Surveyor of the melting, who is to see the silver cast out, and not to be altered after it is delivered to the Melter : which is after the Assay-master hath made triall of it. Then is the Clerke of the Irons, who feeth that the Irons bee cleane, and fit to worke with. Then the Graver, who graveth the stampes for the moneys. Then the Smyters of Irons, who after they be graven, smiteth them upon the money. Then the Melters, that melt the Bullion, before it come to the coyning. Then the Blanchers, who doe aneale, boyle, and cleanse the money. The Porter, who keepeth the gate of the mint. The Provost of the mint, who is to provide for all the moniers, and to over-see them. Lastly, the moniers, who are some to sheere the money, some to forge it, some to beate it abroad, some to round it, some to stampe or coyne it. Their wages is not by the day or yeare, but uncertaine, according to the weight of the money coyned by them. Other officers that have been in former time, are said now to be out of use.

Misaventure, or *misadventure*, commeth neere the French (*mef-adventure. i. infortunium.*) In our common law, it hath an especiall signification for the killing of a man, partly by negligence, and partly by chance: As if one thinking no harme, dissolutely throweth a stone, wherewith he killeth another : or shoothech an arrow, &c. For in this case hee committeth not felony, but onely looseth his goods, and hath pardon of course for his lite. *Stawnf. pl. cor. lib. 1. ca. 8. Britton ca. 7.* distinguishest between *Aventure* and *misaventure*. *Aventure* hee maketh to bee meere chance, as if a man being upon or neere the water, be taken with some sodaine sicknesse, and so fall in, and is drowned, or into the fire, and bee burned to death. *Misaventure* hee maketh, where a man commeth to his death by some outward violence, as the fall of a tree, or of a gate, the running of a cart-wheele, the stroke of a horse, or such like. So that *misaventure* in *Stawnfords opinion*, is construed somewhat more largely, then *Britton* understandeth it. *West. parte 2. symbol. titulo Inditement, sect. 48.* maketh homicide casuall, to be merely casuall or mixt. Homicide by meere chance, hee defineth *sect. 49.* to be, when a man is slaine by meere fortune, against the

mind of the killer; as if one hewing, the Axe flieth off the haft, and killeth a man. And this is all one with *Brittons misaventure*. Homicide by chance mixed, he defineth, *Sect. 50.* to be, when the killers ignorance or negligence is joyned with the chance: as if a man loppe Trees by a high way side, by which many usually travell, and cast downe a bough, not giving warning, &c. By which bough, a man passing by, is slaine.

Miscontinuance, *Kitchin*, fol. 231. See *Discontinuance*.

Mise. (*misa*) is a French word signifying as much as (*expensum*) in Latine, and the Latine word (*Misa*) is so used in *Kitchin*, fol. 144. and in *West*, *parte 2. symbol. rimb*, Proceedings in Chancerie, *Sect. 21. F.* It is used *anno 2. & 3. Ed. 6. ca. 36.* for a summe of money paid by the Kings tenents in certaine Counties in *Wales* according to their severall customes. In the statute *33. H. 8. ca. 13.* it is used plurally, for certaine custumarie gratuities sent to the Lord Marchers of *Wales*, by their Tenents, at their first comming to their lands. And *anno 4. & 5. Pb. & Ma. cap. 11.* *Mise* is used in an action of right or properte, for the point whereupon the parties proceed to triall, either by Assise or battell: as if issue is in an action personall; if

the *Mise* be upon battell, *Littleton*, fol. 102. and in the *Old nat. br. fol. 2.* you have these words: Know yee that this writ hath but two issues: that is to say, joyning the *mise* upon the meere, and that is, to put himselfe into the great *Assise* of our Soveraigne Lord the King, or to joyne battell. See *anno 37. Ed. 3. cap. 16.* To joyne the *mise* upon the meere, is as much to say, as to joyne the *mise* upon the cleere right, and that in more plaine termes is nothing else, but to joyne upon this point, whether hath the more right, the Tenant or Demandant. *Littleton*, lib. 3. cap. 8. fol. 101. b. This word in some other place is used for a Participle, signifying as much as (*cast or put upon*) in English, which appeareth by Sir Ed. Cokes report in *Saffins case*, vol. 6. fol. 124. a.

Misericordia, is used in the common law, for an arbitrarie punishment, *Braeton*, li. 4. tractat. 5. cap. 6. in these words: *Item quis in misericordiam inciderit pro diffessina, non remanebit misericordia exigenda, si ille qui amiserit, quae sevirerit convictionem*. *Kitchin*, fol. 78. out of *Glanvile* saith thus: *Est autem misericordia, quia quis per juramentum legalium bonorum americiatus est, ne aliquid de suo honorabili contencimento amittatur*. Which saying you have in a manner word for word in *Glanvile*, lib. 9.

lib. 9. cap. 11. Fitzberbert faith, that it is called *misericordia*, because it ought to be very moderate, and rather lesse then the offence, according to the tenure of the great Charter, cap. 14. This faith Fitzberbert in his *not. brev.* in the writ *De moderata misericordia*, fol. 75. A. 1. *Misericordia* is to be quit of *misericors*, that is, to be discharged of all manner of amercements, that a man may fall into within the Forest. See M. Cromptons *Jurisdictions*, fol. 196. See *Amercement*. See *Mercie*, and *Moderata misericordia*.

Miskennung. i. changing of speech in Court. *Saxm* in the description of Engl. cap. 11.

Misnomer, is compounded of the French (*mes*.) which in composition alwaies signifieth as much as (*avise*) and (*nomer*. i. *nominare*) It signifieth in our common law, the using of one name for another, or mis-terming. *Broke, titulo Misnomer*.

Misprision (*misprisio*) commeth of the French (*Mespris*. i. *fastidium, contemptus*.) It signifieth in our common law, neglect, or negligence, or over-sight: As for example, Misprision of treason, or of felonie, is a neglect or light account shewed of treason, or felonie committed, by not revealing it, when we know it to be committed; *Stawnf. pl. cor. li. 1. ca. 19.*

which reade at large: or by letting any person committed for treason or felonie, or suspition of either, to goe before he be indicted. Also Misprision of Clerks, anno. 8. H. 6. ca. 15. is a neglect of Clerks in writing, or keeping Records. Thirdly, anno 14. Ed. 3. ca. 6. stat. prim. by misprision of Clerks no processe shal be admitted. Misprision of treason, is the concealement, or not disclosing of knowne treason, for the which the offendours are to suffer imprisonment during the Kings pleasure, lose their goods, and the profits of their lands, during their lives. *Crompton in his Justice of Peace, cap. Misprision of felonie*, fol. 40. *West, parte 2. symbol. titulo Inditaments, Sectt. 62. in fine*. Misprision of felonie, seemeth onely finable by the Justices, before whom the partie is attainted. *Cromptons Justice of Peace, ubi supra*. The Justices of the common place have power to assesse fines and amerciaments upon persons offending for misprisions, contempts, or negligences, for not doing, or mis-doing any thing, in or concerning fines, *West, parte 2. symbol. titulo Fines, Sectt. 133.* Justices of Assise shall amend the defaults of Clerkes misprising of a Syllable or Letter or writing, *Cromptons Jurisdictions*, fol. 208. But it is to be noted, that other faults may

be accounted Misprisions of treasons or felonie, because certaine latter statutes do inflict that punishment upon them, that of old hath beene inflicted upon Misprisions, whereof you have an example, anno 14. Eliz. ca. 3. of such as coine forreine Coines not current in this Realme, and of their Procurers, Aiders, and Abettors. And see the new exposition of Law Termes. Misprision signifieth also a mistaking, anno 14. Ed. 3. stat. pri. ca. 6.

Missee. See *Mise*.

Misuser, is an abuse of libertie or benefit: As he shall make fine for his misuser, *Old nat. brev. fol. 149.*

Mysterie (*mysterium*) commeth of the Latine (*mysterium*) or rather from the French (*mestier. i. ars, artificium*) an art, or occupation.

Mittendo manuscriptum pedis finis, is a writ Judiciall, directed to the Treasurer and Chamberlaines of the Exchequer, to search and transmit the foot of a fine, acknowledged before Justices in *Eyre*, into the Common plees, &c. Register, fol. 14. a. b.

Mittimus, signifieth a Precept sent by the King out of his Bench, to those that have the custodie of fines levied, that they send them by a day assigned to his Bench, *West. parte 2. symb. titulus*

Fine. See. 138. F. & 154. B. and also to the Exchequer for certificate that Judgement is given for the livery of lands to such or such a one, out of the Kings hands: whereupon hee is dismissed also out of the Exchequer, an. 5. R. 2. ca. 15. of divers other uses and applications of this (*Mittimus*) see the Register originall in the Table of the booke.

Moderata misericordia; is a writ that lleth for him that is amerced in Court Baron or other, being not of Record, for any transgression or offence beyond the qualitie of a fault. It is directed to the Lord of the Court, or his Bailiffe, commanding them to take a moderate amerciament of the partie; and is founded upon *Magna charta*, ca. 14. *Quod nullus liber homo amercietur nisi secundum qualitatem delicti,* &c. The rest touching this writ, see in *Fitzb. nat. br. fol. 75.* See *Misericordia*.

Modo & forma, are words of Art in a Processe, and namely in the answer of the Defendant, whereby he denieth himselfe to have done the thing laid to his charge, *modo & forma declarata, Kitchin, fol. 232.* It signifieth as much, as that clause in the civill law, *Negat allegata, prout allegantur, esse vera.*

Moitie, commeth of the French (*Moitié*) id est, *coequa vel medi-*

media pars) and signifieth the halfe of any thing, *Littleton*, fol. 125.

Monks cloths, anno 20. Hen. 6. cap. 10.

Mouiers (*monetarii*) *Register originalis*, fol. 262. b. & anno 1. Ed. 6. ca. 15. be Ministers of the Mint, which make and coyne the Kings money. It appeareth by some Antiquitie which I have seene, that in ancient times our Kings of England had Mints in most of the Countries of this Realme. And in the Tractate of the Exchequer, written by *Ockbam*, I finde, that whereas the Sheriffes ordinarily were tyed to pay into the Exchequer, the Kings Sterling, for such debts as they were to answer, they of *Northumberland*, and *Cumberland*, were at libertie to pay in any sort of money, so it were Silver. And the reason is there given, because those two Shires, *monetarios de antiqua institutione non habent*.

Monstrance de droyt, is as much to say, as shewing of his right. It signifieth in our common Law, a suit in Chancery to be restored to lands or tenements, that indeed be mine in right, though they were by some office found to be in possession of another lately dead. See *Statut. prerog. cap. 21.* at large, and *Broke, titulus Petition*. Of this also reade Sir

Edward Cokes Reports, lib. 4. fol. 54. b. &c. *The Wardens of the Sudlers case*.

Monstraverunt, is a writ that lieth for tenents that hold freely by Charter in ancient Demeane, being distreined for the payment of any tolle or imposition, contrary to their libertie, which they doe or should enjoy, which see in *Fitzb. nat. br. fol. 14.*

Moriam, is alhone in signification with the French (*Morion. i. cassis*) a head piece: which word the French man borroweth from the Italian (*morigone*) anno 4. & 5. *Pb. & Ma. ca. 2.*

Morling, alias *mortling*, seemeth to be that wooll which is taken from the skin of a dead Sheepe, whether dying of the rotte, or being killed, anno 27. H. 6. ca. 2. This is written *Morkin*, anno 3. *Jaco. ca. 8.*

Mort d' ancester. See *Affise*.

Mortgage (*mortuum uadium, vel mortagium*) is compounded of two French words (*mort, id est, mors*) and (*gage, id est, pignus, merees*.) It signifieth in our common Law, a pawne of land or tenement, or any thing moveable, laid or bound for money borrowed, peremptorily to be the Creditours for ever, if the money bee not payd at the day agreed upon. And the Creditour holding land or tenement upon this bargaine, is in the meane time

time called Tenant in mortgage. Of this wee reade in the grand Custumarie of Normandie, cap. 1. i. 3. in these words: Notandum insuper est, quod vadiorum quoddam vivum, quoddam mortuum nuncupatur. Mortuum autem dicitur vadum, quod se de nihilo redimit & acquiescat, ut terra tradita in vadum pro centum solidis, quam cum obligator retrahere voluerit, acceptam pecuniam restituat in solidum. Vivum autem dicitur vadum, quod ex suis preventibus acquiratur. Ut terra tradita in vadum pro centum solidis usque ad tres annos, que clapsio tertio anno, reddenda est obligatori, vel tradita in vadum, quousq[ue] pecunia recepta de ejusdem preventibus fuerit perfoluta. Glanvile likewise lib. 10. cap. 6. defineth it thus: mortuum vadum dicitur illud, cuius fructus vel redditus interim percepti in nullo se acquiescant. So you see by both these Bookes, that it is called a dead gage, because whatsoever profit it yeeldeth, yet it redeemeth not it selfe by yeelding such profit, except the whole sum borrowed be likewise payd at the day. See *Skene de verb. significat. eodem.* He that layeth this pawn or gage, is called the Mortgager, and he that taketh it, the Mortgagee, West, parte 2. symb. titulo Fines. Sect. 145. This, if it containe excessive usurie, is prohibited, anno 37. H.8. ea. 9.

Mortmaine (Manus mortua) is compounded of two French words (*Mort. i. mors*) and (*Main. i. manus*). It signifieth in the common law, an alienation of lands or tenements to any Corporation, Guild, or Fraternitie, and their successours, as Bishops, Parsons, Vicars, &c. which may not be done without license of the King, and the Lord of the manor. The reason of the name proceedeth from this, as I conceive it, because the services and other profits due for such lands, as Escheates, &c. commeth into a dead hand, or into such a hand as holdeth them, and it is not of power to deliver them, or anything for them back againe. *Magna charta*, cap. 36. & anno 7. Ed. prim. commonly called (the statute of Mortmaine) and anno 18. Ed. 3. statut. 3. cap. 3. & anno 15. Richard 2. cap. 5. Polydore Virgil in the seventeenth booke of his Chronicles, maketh mention of this law, and giveth this reason of the name. *Et legem banc manum mortuam vocarent, quod res sensel date collegiis sacerdotum, non utique rursus venderentur, velut mortua, hoc est, usui aliorum mortalium in perpetuum adempta essent. Lex diligenter servatur, sic ut nihil possessionum ordinis sacerdotali a quoquam detur, nisi Regio permittat.* But the former statutes be something abridged by

by anno 39. Elizabeth, cap. 5. by which the gift of land, &c. to Hospitals, is permitted without obtaining of Mortmaine. *Hotomanus* in his Commentaries de verbis feudal. verbo *Manus mortua*, hath these words: *Manus mortua locutio est, qua usus patur de iis, quorum possesso, ut ita dicam, immortalis est: quia nunquam heredem habere defunxit.* *Ex a de causa res nunquam ad priorem dominum revertitur.* Nam manus pro possessione dicitur, mortua pro immortali. Sic municipium dicitur non mori. l. An usus fructus, 56. D. de usufr. legat. quoniam bonitibus alii successentibus idem populi corpus videatur. l. proponebat. 76. D. de Judicis: *Hec Hotomanus;* and reade the rest. *Amortizatio*, est in manum mortuum translatio Principis jussu. Petrus Belluga in speculo principum: fol. 76. *Jus amortizationis* est licentia capiendi ad manum mortuam. *Idem*, codem. where you may reade a learned Tractate, both of the beginning and nature of this Doctrine. To the same effect you may reade *Cass. de consuet. Burg.* pag. 348, 387, 1183, 1185. 1201, 1225, 1285. 1218, 1274. M. Skene de verbo. signif. saith that *Dimittere terras ad manum mortuam*, est idem atque dimittere ad multitudinem sive universitatem, *qua* nunquam moritur; idque per art. 9; 25, seu à contrario sensu, becaule communalties never die.

Murtuarie (*Mortuarium*) is a gift left by a man at his death, to his parish Church, for the recompence of his personall Tithes and Offerings not duly paied in his life time. And if a man have three, or more cattell of any kinde the best being kept for the Lord of the Fee, as a *Heriot*; the second was wont to be given to the parson in right of the Church, *ca. statutum.* *De consuetu. in provincial.* Touching this you have two Statutes; one anno 13. Edw. pri. commonly called, *Circumspecte agatis:* whereby it appeareth, that Mortuaries are suable in the Court Christian; the other, anno 21. H. 8. *ca. 6.* whereby is set downe an order and rate in money for Mortuaries.

Mulier, as it is used in the common law, seemeth to be a word corrupted, and used for (*Melior*) or rather the French (*Melieur.*) It signifieth the lawfull issue preferred before an elder Brother borne out of Matrimonie; anno H. 6. *ca. 11.* *Smith de repub. Anglo.* lib. 3. *ca. 6.* But by *Glanvile*, lib. 7. *ca. 1.* the lawfull issue seemeth rather (*Mulier*) then (*Melior*) because it is begotten (*è muliere*) and not (*ex Concubinâ*) for he calleth such issue *filios mulierates*, opposing them to Bastards. And *Britton*, *ca. 70.* hath frere *mulier* i. the Brother begotten of the wife,

opposite to *frere bastard*. This seemeth to bee used in Scotland also : For Master Skene, *de verborum significat*, verbo *Mulleratus filius*, sayth, That *Mulleratus filius* is a lawfull sonne, begotten of a lawfull wife. Quia *mulleris appellatione uxor continetur*, i. *Mulleris 13*, & *ibidem*. *Glossi de verborum significati-*
one.

Mulmutius lawes. See Law.

Mulmure (*Molitura*, v^et *Mulmura*) commeth neere the French (*Moulture*) and signifieth in our common Law, the tolle that the Miller taketh, for grinding of corne.

Murage (*Muragium*) is a tolle or tribute to be levied for the building or repairing of publike edifices or walles. *Fitzherberts Nat. Brev.* fo. 227 d. *Murage* seemeth also to bee a liberty granted by the King to a towne, for the gathering of money toward waling of the same. *anno 3 Edw.* 1, ca. 30.

Murder (*murdrum*) is borrowed of the French (*Mourtrier*, i. *Carnifex*, *homicida*) or *Meurtre*, i. *internecio*, *homicidium*. The new Expositor of the Law-Tearmes draweth it from the Saxon word (*Mordren*) signifying the same thing. It signifieth in our common law, a willful and felonious killing of another upon prepeñed malice, *anno 52 H. 3*

ca. 25. *West*, parte 2, *symbol. titulo Inditementis*, *Sect. 47*. *Bretton*, b. 3, tract. 2, ca. 15, nro. 1, defineth to be, *homicidium*, *quod nullo presenti, nullo scione, nullo evidenti, nullo vidente*, *etiam perpetratur*. And of the same mind is *Brutus*, c. 6. as also *Fleta*, lib. 1, cap. 30. Yet *Fleta* saith also, That it was not murther, except it were proved the party slaine were English, and no stranger. But as *Statutus*, sayth, pl. *Cor. li. 1*, cap. 2, the law in this point is altered by the statute, *anno 14 Edward 3 cap. 4*, and murther is now otherwise to bee defined. When a man upon prepeñed malice killeth another, whether secretly or openly, it maketh no matter : or bee hee an Englishman, or a forreiner living under the kings protection. And prepeñed malice is heere either expresse or implied : Expresse, when it may bee evidently proved that there was formerly some evill will implied : when one killeth another suddenly hauing nothing to defend himselfe, as going over a stile, or such like, *Cromptons Justice of peace*, in the Chapter of Murther, fol. 19, b. See Master Skene, *de verbor. significat*. *Verbo Murdrum*. This by the Latine interpreter of the grand Custumary of Normandie, is called *Multrum*. cap. 68. See *Were*.

Muster, commeth of the French
(*mon-*

(monsire, i. specimen speciem anuen exemplis) as seire mansie generale de tenere son armee, is as much as bistrare exercitum. The signification is plaine. Muster of record, anno 18 Henr. 6, cap. 19, seemeth to be dare women, or to be inrolled in the number of the Kings fouldiers. Master of the kings multers, an. 2 Ed. 6, ca. 2, see Muster.

Muster-master generall, anno 35 Eliz. ca. 4. See Master of the Kings Musters.

N A

Naam (Namium) seemeth to come from the Dutch word nemmen, i. capio. It signifieth in our common law, the taking or apprehending of another mans moveable goods: and is either lawfull or unlawfull. Lawfull naam is nothing else but a reasonable distres, proportionable to the value of the thing distreined for: and this naam was anciently called either *ris* or *mort*, quicke or dead, according as it is made of dead or quicke chatels. Lawfull naam is so, either by the common law, or by a mans particular fact: by the common Law, as when one taketh another mans beasts damage sciant in his groundes: by a mans particular fact, as by reason of some contract made, that for default of payment of an annuity agreed up-

on, it shall be lawfull to distrein in such or such lands, &c. Hornes Mirour of Justices, lib. 2, ca. de vec. de naam, where you may reade of other circumstances required in lawfull naam, viz. of what thing or of what things first, in what maner, on what dayes, and at what houses it ought to be made: with other points worth the reading, for the understanding of our Law Antiquities. See *Withernam*.

Nasse, anno 4 Henr. 7, ca. 21, seemeth to be the proper name of Orford Haven. Whether it bee so tearmed of the boats or water Vessells that lie there, or not, let the Reader judge. But nasselle is in French a kind of small boat.

Nativo habendo is a writ that lieth to the Sheriff for a Lord, whose Villeine claimed for his inheritance, is runne from him, for the apprehending and restoring of him to his Lord againe: Regist. Orig. fo. 87. Fitz. Nat. Brev. fo. 77. See *Libertate probanda*.

Naturalization, See *Deni-zen*.

Ne admittas, is a writ that lieth for the plaintiff in a *Quare impedit*, or him that hath an action of *Darras* presentment depending in the common Bench, and feareth that the Bishop will admit the Clerke of the Defendant, during the suit betweene

Y y 2 them.

them. And this writ must be sued within sixe moneths after the avoydanee. Because after the sixe moneths the bishop may present by lapse. Register orig. ill, fol. 31. Fitz. nat. br. fol. 37. where see the rest.

Negative pregnant (*Negativa prægnans*) is a negative implying also an affirmative. As is a man being impleaded, to have done a thing upon such a day, or in such a place, denieth that hee did it *modo & forma declarata*: which implyeth nevertheless, that in some sort hee did it. Or if a man be said to have alienated land, &c in fee; hee denying that hee hath alienated in fee, seemeth to confess that hee hath alienated in some other sort. Dyer, fol. 17. num. 95. See Brooke hoc titulo, and Kirchin, fol. 232. And see the new exposition of law termes. And reade also in some Civilians, of *Affirmativa prægnans*, and that is, *qua habet in se inclusivam negativam*. *Et hoc importare videtur dictio nis* (*Solum & tantum, qua implicant negativam*) *Pacianus. De probationibus*, lib. 1. cap. 31. nro. 16. fol. 93.

Nef (*nativa*) commeth of the French (*Naif. i. naturalis, vel nativus*) it signifieth in our common law, a bond woman, anno 1. Ed. 6. cap. 3. the reason is, because women become bound rather *nativitate*, thid by any other means.

- *Ne in justæ vixes*, is a writ that lyeth for a Tenant, which is strained by his Lord, for other services then hee ought to make, and is a prohibition to the Lord in it selfe, commanding him not to distreine. The especiall use of it is, where the Tenant hath formerly prejudiced himselfe by performing more services, or paying more rent without constraint, then he needed. For in this case, by reason of the Lords seisin, hee cannot avoid him in a-vowry: and therefore he is driven to this writ as his next remedie, Register orig. fol. 4. Fitz. nat. br. fol. 10.

Ne vicecomes colos mandsti Regis quenquam amoveat à possessione ecclesie minus justè, Register orig. fol. 61.

Nient comprise, is an exception taken to a petition as unjust, because the thing desired, is not contained or comprehended in that act or deed, whereupon the petition is grounded. For example, one desirer of the court, to be put in possession of a house formerly among other lands, &c adjudging unto him. The adverse party pleadeth, that his petition is not to be granted, because though hee had a judgement for certaine lands and houses: yet the house into the possession whereof he desirereth to bee put, is not contained among those for the which hee had

had judgement. See the new book of Entries, *titulo Nient comprise.* This seemeth to be especially to hinder execution.

Nisk, anno 3. Ed. 4. cap. 5.

Nibil, anno 5. R. 2. stat. 1. cap. 3. is a word set upon a debt illeviable, by the forreine Apposer in the Exchequer.

Nibildicit, is a falling to put in answer to the Plee of the Plaintiff by the day assigned, which if a man doe commit, judgement passeth against him, as saying nothing why it should not.

Nisiprīus, is a writ judiciall, which lieth in case, where the Enquest is paneled, and returned before the Justices of the Banke, the one partie or the other making petition, to have this writ for the ease of the Countie. It is directed to the Sheriffe, commanding that hee cause the men impaneled to come before the Justices in the same Countie, for the determination of the cause there, except it bee so difficult, that it need great deliberation. In which it is sent againe to the Banke, v. anno 14. Edw. 3. cap. 15. The forme of the writ, see in *Old nat. br.* fol. 159. and in the *Register judiciall,* fol. 7, & 28. & 75. See the new booke of Entries, verbo, *Nisi prius.* And it is called (*Nisi prius*) of these words comprised in the

same, whereby the Sheriffe is willed to bring to *Westminster,* the men empaneled at a certaine day, or before the Justices of the next Assises : *Nisi die Luna apud talem locum prius venerint,* &c. whereby it appeareth, that Justices of Assises, and Justices of (*Nisi prius*) are differing. And Justices of (*Nisi prius*) must be one of them, before whom the cause is depending in the Bench, with some other good man of the Countie associated unto him, *Fitzherb. nat. brev.* fol. 240. E. which he taketh from the Statuteute of Yorke, anno 12. Ed. 2. See *Westm. 3. cap. 30.* anno 13. *Edw. prim.* & anno 27. *ejusdem, cap. 4.* & anno 2. *Edw. 3. cap. 17.* & anno 4. *ejusdem, cap. 11.* & anno 14. *ejusdem, cap. 16.* & anno 7. *Rich. 2. cap. 7.* & anno 18. *Eliz. cap. 12.*

Nobility (nobilitas) in England compriseth all dignities above a Knight. So that a baron is the lowest degree thereof. *Smith de Repub. Anglor. lib. prim. ca. 17.* *Bartolus* in his *Tractare De Nobilitate,* which he complied upon the law, *Si ut proponis C: de dignitatibus, libro 12.* rehearseth fours opinions de Nobilitate, but rejecteth them, and himselfe defineth it thus : *Nobilitas est qualitas illata per principatum tenentem, qua quis ultra honestos plebiorum acceptus ostenditur.* But

this definition is too large for us, except we will account knights and banerets *inter plebem*, which in mine opinion were too harsh. For *Equites* among the Romans were in a middle ranke, *inter Senatores & plebem*.

Nocumento, see *Nusance*.

Nomination (*nominatio*) is used by the Canonists and common Lawyers, for a power that a man by vertue of a manour or otherwile, hath to appoint a Clerke to a Patron of a Benefice, by him to bee presented to the Ordinary. *New Termes of the Law*.

Non-ability, is an exception taken against the plaintife or defendant upon some cause, why hee cannot commence any suite in Law, as *Præmunire*, *Outlawry*, *Vil- lenage*, or *Excommunication*, or because he is a stranger borne. The Civilians say, That such a man hath not *personam stundi in judicio*. See *Brooke, hoc titulo*. See *Fitzb. nat. Brev. fo. 35 a, fo. 65 d. fo. 77 e.* The new expositor of Law Terms reckoneth six causes of Non-ability, as if hee bee an Outlaw, a stranger borne, condemned in a *Præmunire*, professed in religion excommunicate, or a Vil- leine. Howbeit the second cause holdeth onely in actions reall or mixt, and not in personall, except he bee a stranger and an enemie.

Non admittas, See *ne admittas*.

Non-age, is al the time of a mans age under one and twenty years in some cases, or fourteene in some, as mariage. See *Brooke titulo Age*. See *Age*.

Non capienda clericum, see *Clerico non capiendo*.

Non-clayme, *Cromptons Ju- ristic. fo. 144*, seemeth to bee an exception against a man that claimeth not within the time limited by Law, as within the yeare and day, in case where a man ought to make continuall Claime, or within five yeares after a fine levied. *Vide Cooke, lib. 4, in Procesio*. See *Continuall clayme*.

Non compos mentis, is of foure sorts : First, hee that is an Ideot borne. Next, hee that by accident afterward, wholly loseth his wits : Thirdly, a Lunatick, that hath somtime his understanding, and sometime not. Lastly, hee which by his owne act depriveth himselfe of his right minde for a time, as a Drunkard : *Coke, li. 4. fol. 124 b.*

Non distingendo, is a writ comprising under it divers particulars, according to divers Cases, all which you may see in the Table of the Register origin: verbo *non distin- gendo*.

Non est culpabilis, is the generall

nerall answere to an action of Trespass, whereby the Defendant doth absolutely denie the fact imputed unto him by the plaintiff, whereas in other especiall answers, the Defendant granteth a fact to bee done, and alleageth some reason in his defence, why hee lawfully might doe it. And therefore whereas the Rhetoricians, comprise all the substance of their discourses, under three questions, *An sit quid sit, qualem sit*, this answere falleth under the first of the three: all other answeres are under one of the other two. And as this is the generall answere in an action of trespass, that is, an action criminall civillie prosecuted: so is it also in all actions criminally followed, either at the suit of the King or other, wherein the Defendant denieth the crime objected unto him. See the new booke of Entries, *titulo Non culpabilit*, and *Stawnf. pl. cor. lib. 2. cap. 62.*

Non est factum, in an answere to a declaration, whereby a man denieth that to be his deed, whereupon hee is impleaded. *Broke, hoc titulo.*

Non implacitando aliquem de libero tenemento sine brevi, is a writ to inhibit Bailiffes, &c. from distreining any man without the Kings writ, touching his freehold, *Regist. fol. 171. b.*

Non intronmittendo quando breve praecepit in capite subdole imputatur, is a writ directed to Justices of the bench, or in Eyre, willing them not to give one hearing, that hath under the colour of intitling the King to land, &c. as holding of him *in capite*, deceitfully obtained the writ called, *Præcipe in capite*; but to put him to his writ of right, if hee thinke good to use it, *Register originall, fol. 4. b.*

Non mercandizando viualia, is a writ directed to the Justices of Assise, commanding them to inquire whether the Officers of such a towne doe sell victuals in grosse, or by re-taile, during their Office, contrary to the statute, and to punish them, if they find it true, *Regist. fol. 184.*

Non molestando, is a writ that lieth for him, which is molested contrarie to the Kings protection granted him, *Regist. fol. 24.*

Non omittas, is a writ lying where the Sheriff delivereth a former writ to a Bailiffe of a Franchise, within the which the partie, on whom it is to be served, dwelleth, and the Bailiffe neglecteth to serve it: for in this case, the Sheriff returning, that he delivered it to the Bailiffe, this shall be directed to the Sheriff, charging him himselfe, to execute the Kings commandement, *Old nat. brev. fol. 44. of this the Regist.*

Regist.orig. hath three sorts, fol. 82. b. & 151. and the Reg. judic. one, fol. 5, & 56.

Non ponendo in Assisis & Juratis, is a writ founded upon the stat. Westm. 2. c. 38. and the stat. Articuli super chartas. c. 9. which is granted upon divers causes to men, for the freeing them from Assises and Juries. See *Fitz. n.s.t. br. fol. 165.* See the Register, fol. 179, 100, 181, 183.

Non procedendo ad Assisam Regie inconsueto, is a writ to stop the triall of a cause appertaining unto one, that is in the Kings service, &c. untill the Kings pleasure be farther knowne, Register. fol. 220. a.

Non residentia pro clericis Regis, is a writ directed to the Ordinarie, charging him not to molest a clerk employed in the Kings service, by reason of his non residence. Regist. orig. fol. 58. b.

Non-suit, is a renunciation of the suit by the plaintiff or demandant, when the matter is so farre proceeded in, as the Iurie is ready at the Barre, to deliver their verdict, anno 2. H. 4. c. 7. See the new booke of Entries, verbo *Non-suit*. The Civilians terme it *Litis renunciationem*.

Non solvendo pecuniam ad quam Clericus mulctatur pro non residentia, is a writ prohibiting an Ordinarie to take a pecuniarie mulct, imposed upon a Clerke of the

King for Non-residence, Reg. orig. fol. 59.

Non-tenure, is an exception to a count, by laying that hee holdeth not the land specified in the count, or at the least, some part of it, anno 25. Edw. 3. statut. 4. cap. 16. West. parte 2. Symbol. titulo *Fines*. Sect. 138. maketh mention of *Non-tenure* generall, and *Non-tenure* speciall. See the new booke of Entries, verbo *Non-tenure*, where it is said, that especiall *Non-tenure* is an exception, alledging that hee was not tenent the day whereon the writ was purchased. *Non-tenure* generall is then by likelihood, where one denieth himselfe ever to have beene tenent to the land in question.

Non sum informatus. See *Informatus non sum*.

Non sane memorie (*Non sana memorie*) is an exception taken to any act declared by the Plaintiff or Demandant to be done by another, whereupon he groundeth his plaint or demand. And the contents of this exception be, that the partie that did that act (being himselfe or any other) was not well in his wits, or mad when he did it. See the new booke of Entries, titulo *Non sane memorie*, and *Dum non fuit compus mentis*. See also, *sapra Non compus mentis*.

Non terminus (*non terminus*) is the time

time of vacation between Termes and Terme. It was wont to be called the times or dayes of the Kings peace, Lamb. *Archæolo.* fol. 126. and what these were in the time of King Edward the Confessour, see there. This time was called (Justicium) or (Feriae) among the Romans, or (dies nefasti) Ferias appellari notum est tempus illud, quod forensibus negotiis & jure dicendo vacabat. Eorum autem alia solennies erant, alia repentina. Brissou. de verb. signis. lib. 6. vide Wessenbec: parasit. De Feriis. num. 6.

Note of a fine, (nots finis) is a briefe of a fine made by the Chirographer, before it be ingrossed. The forme whereof see in West. parte 2. *Symbols. titulo Fines.* See fol. 117.

Nouvell assigement (nova assignatio) is an assigment of time or place, or such like, otherwise then as before it was assigned. In Broke you may find these words in effect: *titulo, Deputie.* num. 12. See *nouvell assigment of Trespassé* in a new place after Barre p'eaded. *Broke, titulo Trespassé.* 122. and, *nouvell assigement* in a writ de ejctione custodie. *titulo Ejctione custodie.* num. 7. See *Assigment.*

Nude mater. See *Mater.*

Nunne (Nonna) is the French word (nonnain) or nonne something altered, which signifieth a

holy, or consecrated Virgin, or a woman that hath by vow bound her selfe to a single and chalte life, in some place and companie of other women, separated from the world, and addicted to an especiall service of God, by Prayer, Fasting, and such like holy exercises. If wee would know whence this word came into France, Saint Hierome maketh hit an Egyptian word, as Hospinian recordeth of him, in his Booke *De origine & progressu monachatur.* fol. 3.

Nuper obiit, is a writ that lieth for a co-heire being deforced by her co-heire of lands or tenements, whereof the Grand-father, Father, Uncle, or Brother to them both, or any other their common Ancestors, died seised of an estate in Fee simple. See the forme of the writ, origin. Registr. fol. 226. *¶cl Fitzb. nat. br.* fol. 197. If the Ancestor died seised in Fee tail, then the co-heire deforced shall have a *Formdon.* *Idem. ibid.*

Nusance (nocumentum) commeth of the French (*nuire. i. nocere.*) It signifieth in our common Law, not onely a thing done, whereby another man is annoyed in his free lands or tenements, but especially the Assise or writ lying for the same. *Fitzb. nat. br.* fol. 183. And this writ (*de Nocimento*) or of *Nusance,*

sance, as either simply, *De noco-*
*mumento, or de portu noco-*mento; and
then it is *Vicariat*. *Obl.* act. br. fol.
198, ¶ 199. & Fitzherbert, br.
ubi supra, & fol. 184. *Britotical-*
lath it *Nocance*, whom also reade
cap. 61, ¶ 62. *M. Adam* in pa-
te 21 of his *Forest Lawes*, capv. 17.
maketh three sorts of *Nocance* in
the Forest, the first is *Nocumen-*
tum communum, the second, *Noco-*
mumentum speciale, the third, *No-*
cumentum generale; which reade
with therest of that whole chap-
ter. See the Register orig. fol. 197.
& 199.

Nutmegr. *C. was myristica, wil-*
nus myristica, & is a spicke well
knowne to all. In growthe of a
tree like a Peach tree, and is in-
closed in two huskes, whereof the
inner huske is that spica which
we call Mace. Of this who will
may reade more in *Gerards her-
ball*, lib. 3. ca. 145. It is men-
tioned among spices that are to bee
garbled, anno 1. *Jaco.* cap. 19.

O

Obedientie, was a rent, as ap-
peareth by *Roger Hoveden*
parte poster: *suorum annualium*, fol.
430. in these words: *ut ego sis,*
sc. regularibus, adimitur oportuni-
tas evagandi, prohibemus, ne redius
quos obediencias vocat, ad firmam
rentant, &c. *Obedientia* in the
canon law is used for an office or

the administration of an office,
ca. *can ad monasterium*. 6. *extra*
de statu monachico. ¶ *cano. regula.*
And thereupon the word (*obedi-*
entiales) is used in the provinci-
all constitutions for those which
have the execution of any office
under their Superiors. *cap. prim.*
de statu, regula. ¶ *For this saith*
Lynwood in his glosse upon that
word: Hui sunt qui sub obedientia
suorum prelatorum sunt, & habent
cetera officia administranda inter ipsi
vel exteris. It may be that some
of these offices called *obedientie*
consisted in the collectiō of rents
or pensions: and that therefore
those rents were by a metonymie
called *obedientia*, quia colligeban-
tur ab *obedientiis*.

Oblations (*oblaciones*) are thus
defined in the canon law. *Obli-*
*entes dicuntur, que cumq; a p̄fici-*de**
datib; sive *Christianis* *offeruntur*
Deo & eccl; sive res soli, sive
mōbiles *sunt.* *Nec refert an legen-*
tuos testamentos, an alter donentur,
cap. clerici. 13. quest. 2. Reade
more of these in *Duarenus. De*
sacer. eccl. minister. ac benef. cap.
tatio.

Obligation (*obligatio*) and Bill
beall one, saving that when it is
in English, it is commonly cal-
led a Bill, and when it is in La-
tine, an Obligation. *West. parte 1.*
Symbol. lib. 2. sect. 146. True
it is that a Bill is obligatorie:
but wee commonly call that an
Ob-

Obligation, which hath a condition annexed. The former Author in the same place saith thus farther. An Obligation is a deed, whereby the obligour doth knowledge himselfe to owe unto the obligee, a certaine summe of money, or other thing. In which, besides the parties names, are to bee considered the thing due, and the time, place, and manner of payment, or deliverie. Obligations bee either by matter in deed, or of record. An Obligation by matter in deed, is every obligation not acknowledged and made in some Court of Record. Hitherto Master West.

Occupavit, is a writ that lieth for him, which is ejected out of his land or tenement in time of war: as a writ of *Novel disseisin* lieth for one ejected in time of peace. *Ingham* §. *Brief de novel disseisin*.

Otto tales. See *Talei*. See *Brooke tit*. *Ocio tales*.

Odio & atia, anno 3. Ed. 1. cap. 11. is a writ sent to the under-Sheriffe, to inquire whether a man being committed to prison upon suspicion of murther, be committed upon malice or evill will, or upon just suspition, *Registr. orig.* fol. 133. b. See *Bracton*, li. 3. partie 2. cap. 20.

Office (*Officium*) doth signifie not only that function, by vertue

wherof, a man hath some imployement in the affaires of another, as of the King, or other common person; but also an Inquisition made to the Kings use, of any thing by vertue of his office who inquireth. And therefore we oftentimes read of an office found, which is nothing but such a thing found by Inquisition made *ex officio*. In this signification it is used anno 33. H. 8. cap. 20. and in *Stamfords prerog.* fol. 60, & 61. whereto traverse an office, is to traverse the Inquisition taken of office. And in *Kitchin*, fo. 177. to returne an office, is to returne that which is found by vertue of the office; see also the new booke of Entries, *verbo Office pur le Roy*. And this is by a metonymie of the effect: And there bee two sorts of offices in this signification, issuing out of the Exchequer by Commission, viz. an office to intitle the King in the thing inquired of, and an office of instruction, which reade in Sir Edward Cokes reports, vol. 6. *Pages case*. fol. 52. a. b. Office in fee, is that which a man hath to himselfe and his heires, anno 13. Edw. 1. cap. 25. *Kitchin*, fol. 152. See *Clerk*.

Official (*Officialis*) is a word verie diversly used. For by sundry Civilians of other countries, that write in these dayes, it appeareth to be applied in many

places, to such as have the sway of tempotall Justice. *Egidius Bossius in pract. crim. tit. De officiis corruptis, &c.* But by the ancienter civil Law, it signifieth him that is the Minister or Apparitor of a Magistrate or Judge. *I. i. §. si quis ultro. n. de quæstio. & Co. de filiis officialium, &c. lib. 12.* In the Canon law, it is especially taken for him, to whom any Bishop doth generally commit the charge of his spirituall Jurisdiction. And in this sense one in every Dioces is (*officialis principalis*) whom the Statutes and Lawes of this Kingdome call Chanceler, *an. 32. H. 8. cap. 15.* The rest, if there bee more, are by the canon law called *officiales foranei. glos. inclem. 2. de Rescriptis*, but with us termed Commissaries (*Commissarii*) as in the statute of *H. 8.* or sometimes (*Commissarii foranei.*) The difference of these two powers you may reade in *Lyndwood, titulo de sequestra posses. ca. 1. verbo. Officialis.* But this word (*official*) in our Statutes and common law, signifieth him, whom the Archdeacon substituteth in the executing of his Jurisdiction, as appeareth by the Statute above-mentioned, and many other places.

Officiarius non faciendis, vel amovendis, is a writ directed to the Magistrates of a corporation,

willing them not to make such a man an officer, and to put him out of the office he hath, untill enquiry be made of his manners, according to an inquisition formerly ordained. *Register originall, fol. 126. b.*

Onerando pro rata portionis, is a writ that lieth for a joynct tenent, or tenent in common, that is distained for more rent, then the proportion of his land commeth unto. *Reg. orig. fol. 182. a.*

Open Law, (*Lex manifesta, Lex apparens*) is making of Law, which by *Magna charta, c. p. 28.* Bayliffes may not put men unto upon their owne bare assertions, except they have witness(es) to prove their imputation.

*Orebat anno 1. R. 3. cap. 8. Or-
chard, anno 24. H. 8. c. 2. Et anno
3. & 4. Ed. 6. cap. 2. seemeth to
be all one with corke.*

Ordinance of the Forest (*Ordinatio Forestæ*) is a Statute made touching Forest causes in the 34. yeare of Edward 1. See *Af-
fise.*

Ordinarie (*Ordinarium*) though in the civil Law, whence the word is taken, it doth signifie any Judge that hath authoritie to take knowledge of causes in his owne right, as he is a Magistrate, and not by deputation: yet in our common law, it is most commonly, and for ought I remember, alway taken for him, that

that hath ordinary jurisdiction in causes Ecclesiastical. See Brooke hoc titulo. *Lindwood* in cap. exterior, *titulo de Constitutionibus verbo Ordinariis*, saith quod *Ordinarius habet locum principaliter in Episcopo, & aliis superioribus, qui sole sunt universales in suis jurisdictionibus, sed sunt sub eo aliis ordinariis, huius viz. quibus competit jurisdictionis ordinaria de jure, privilegio, vel consuetudine, &c. v.c.*

Ordinatione contra servientes, is a writ that lyeth against a servant for leaving his Master against the Statute, *Register original*, fol. 189.

Ordel (*Ordalium*) is a Saxon word, signifying as much as Judgment, in some mens opinions compounded of two Saxon words (*or*) a privatee as (*a*) in Greeke, and (*deli. pars*) It signifieth as much as *expers*: but it is artificially used for a kinde of purgation practised in auantient times: whereby the party purged, was judged *expers criminis*, called in the canon Law *purgatio vulgaris*, and utterly condemned. There were of this two sorts, one by fire, another by water. Of these see *M. Lamberd* in his explication of Saxon words. *verbo Ordalium*, where he expresseth it at large, with such superstitions as were used in it. Of this you may likewise reade *Holinshed* in his description of Bri-

taine, fol. 98. and also *M. Mawood, parte pri. of his Ffrest lames*, pag. 15. But of all the rest, *Hotman* especially, *disput. de fendo*. cap. 41. where of five kind of proofs, which he calleth *fendales probationes*, he maketh this the fourth, calling it *exploracionem, & bujus fieriose probationis 6. genera fuisse animadvertisit*, per *flammam, per aquam, per ferrum candens, per aquam vel gelidam, vel ferventem, per sortes, & per corpus Domini*, of all which he alledgedeth severall examples out of History, very worthy the reading. See *M. Skene* also *de verbor. significacione, verbo Machamintu*) This seemeth to have been in use here with us in *Henry the seconds daies*, as appeareth by *Glanvile*, lib. I. c. 1. & 2. Read also of this in *M. Verstegans Restitution of decayed intelligence*, cap. 3. pag. 63 & seqq.

Offgild, alias *Cheapegild*, is a restitution made by the Hundred or Countie, of any wrong done by one that was in *plegio*. *Lamberd. Archaison*. page 125. & 126.

Orgais, anno 31. Ed. 3. Stat. 3. cap. 2. is the greatest sort of North sea-fish, now a dayes called *Organ ling*.

Oredelfe, is a liberty whereby a man claymeth the Ore found in his soyle. *New exposition of Termes.*

Ortelli, is a word used in the booke termed (*pupilli sculi*) in the chapter containing the Charter of the Forest, parte 5. cap. 22. and signifieth the clawes of a dogs foot, being taken from the french, *artails des pieds.* i. *digiti pedum,* the Toes.

*Ostendit, anno 32. Henr. 8.
cap. 14.*

Oath of the King (*juramentum Regis*) is that which the King taketh at his Coronation, which in Braccus is set downe in these words: *Debet Rex in coronacione sua, in nomine Iesu Christi prestito sacramento hoc tria promittere populo suis subditis: I primis se esse praeceptorum & pro viribus operis impensorum ac ecclie dei & omni populo Christiano vera pax omni suo tempore obseruetur. Secundo, ut rapacitatem & omnes iniquitatis omnibus gradibus interdicat. Tertio, ut in omnibus judiciorum equitatem precipiat & misericordiam, ut indulget ei suam misericordiam clementem & misericors Deum, & ut per Justitiam suam frons gaudeans pace universi.* And in the old abridgement of Statutes set out in King Henry the eights dayes, I find it thus described.

This is the oath that the King shall sweare at his Coronation: That bee shall keepe and mainaine the right, and the liberties of the Holy Church, of old time granted by the righteous Chri-

tian Kings of England, and that bee shall keepe all the Lands, Honours, and Dignities righteous and free of the Crowne of England in all manner whole, without any manner of minishement, and the rights of the Crowne hurt, decayed, or lost, to his power shall call againe into the ancient estate; and that bee shall keepe the peace of the Holy Church, and of the Clergie, and of the people with good accord: and that bee shall doe in all his judgements equitie, and right justice, with discretion and mercie: and that he shall grant to hold the lawes and customes of the Realme, and to his power keepe them, and affirme them, which the folke and people have made and chosen: and the evill Lawes and customes wholly to put out: and stedfast and stable peace to the people of this Realme, keep, and cause to be kept to his power: and that he shall grant no Charter, but where he may doe it by his oath. All this I find in the foresaid Booke, *titulus Sacramentum Regis.* and *Charter of Pardon.* quinto.

Oath of the Kings Justices is, That they well and truely shall serve the King, and that they shall not assent to things, that may turne to his dammage or disinheritance. Nor that they shall take

no fee nor livery of none but the King. Nor that they shall take gift nor reward of none that hath adoe before them, except it be meate and drinke of small value, as long as the plee is hanging before them, nor after for the cause. Nor that they shall give counsell to none in matter that may touch the King, upon paine to bee at the Kings will, body and goods. And that they shall doe right to every person, notwithstanding the Kings letters, &c. anno 18. Ed. 3. statut. 4. which the old abridgement maketh to be anno 20. ejusdem statuto per se.

Otbo, was a Deacon Cardinall of S. Nichens in carcere Tulliani, and Legate for the Pope here in England, anno 22. H. 3. whose constitutions wee have at this day: *Statutes An. p. 303.* and see the first constitution of the said Legat.

Olibonius was a Deacon Cardinall of S. Adriani, and the Popes Legate here in England, anno 15. Hen. 3. as appeareth by the award made betweene the said King and his Commons, at Kendworth; his constitutions we have at this day in use.

Ouob, anno 24. H. 8. cap. 13.

Ouster le main (*Amovere manum*) word for word, signifieth to take off the hand, though in true French, it should be (*Oster la main*) It signifieth in the common

Law, a Judgement given for him that rendeth a travers, or fieveth a *Monstrance de droit*; or petition. For when it appeareth upon the matter discussed, that the King hath no right nor title to the thing he seised, then Judgement shall be given in the Chancery, that the Kings hands be amoved, and therenpon *Amovere manum* shall be awarded to the Escheator: which is as much, as if the judgement were given, that hee shoulde have againe his land. v. *Stat. p. 24. ca. 24.* See anno 28. Ed. 1. stat. 3. ca. 19. It is also taken for the writ grained upon this petition. *Fitzh. nat. br. fol. 256. C.* It is written *oter le maine*, anno 25. Hen. 8. ca. 22.

Ouster le mer (*ultra mare*) commeth of the French (*outre*. i. *ultra*) and (*le mer*. i. *mare*) and it is a cause of excuse or Essoine, if a man appeare not in Court upon Summons. See *Effoin*.

Outfang bief, alias *utfangtbef*, is thus defined by *Bracton*, lib. 3. tra. 2. ca. 34. *Vtfangtbef dicitur latro extraneus veniens alieno de terra aliena, & qui captiuus fuit in terra ipsius, qui tales habet libertates*, but see *Britton* otherwise, fol. 91. b. It is compounded of three Saxon words (*out*. i. *extra*) (*fang*. i. *capiro vel captus*) and (*Tbef*. i. *fur*.) It is used in the common law, for a libertie or privi-

priviledge, whereby a Lord is
inable to call any man dwel-
ling within his owne fee, and ta-
ken for felonie in any other
place, and to judge him in his
owne Court. *Rastals Expos.* of
words.

Oenly of services, is an equali-
tie when the Tenent paravaile
oweth as much to the mesn, as
the mesn doth to the Lord para-
mount. *Fitzb. nat. br. folio. 136.*
A.B.

Outlawry (utlagaria) is the
losse or deprivation of the bene-
fit belonging to a subject: that is,
of the Kings protection and the
Realme. *Braclton, lib. 3. tract. 2.*
cap. 11. num. pri. & nu. 3. *Foris facit*
utlagatus omnia que pacis sunt:
Quia à tempore quo uslagatus est,
caput gerit lupinum, ita quod ab
omnibus interfici possit, & impunè:
maxime si se defenderit, vel fugerit,
ita quod difficilis sit ejus captio,
& nu. 4. Si autem non fugerit, nec
se defenderit cum captus fuerit: ex-
tunc erit in manu domini Regis
mors, & vita, & qui taliter captum
interfecerit, respondebit pro eo sicut
pro alio, v. c.

Outparters anno 9. H. 5. cap. 8.
seemeth to be a kind of theives
in *Ridesdall*, that ride abroad at
their best advantage, to fetch in
such cattell or other things, as
they could light on without
that liberty: some are of opinion,
that those which in the fore-na-

med Statute are termed out-par-
ties, are at this day called out-
putters, and are such as set mat-
ches for the robbing of any man
or house: as by discovering
which way hee rideth or goeth,
or where the house is weakest
and fittest to be entred. See *Inta-
kers*.

Outryders, seeme to be none
other but Bayliffes errants, em-
ployed by the Sheriffes or their
termers, to ride to the farthest
places of their counties or hun-
dreds, with the more speed to
summon to their countie or hun-
dred courts, such as they thought
good to worke upon, *anno 14.*
Edw. 3. stat. 1. ca. 9.

Oxgang of land (Bovata terre)
Six oxgangs of land, seeme to be
so much as six oxen will plough.
Cromp:on. Jurisd. fol. 220. but an
oxegang seemeth properly to be
spoken of such land as lieth in gai-
nour, *old.nat. br. fol. 117. 14.* *Skene*
de verb. signif. verbo Bovata terra)
saith, that an oxen-gate of land
should alway containe 13. acres,
and that 4.oxen-gates extendeth
to a pound land of old extent.
See *Librata terre*.

Oyer and Terminer, (audiendo
& terminando) in true French
(*Ovir & terminer*) is, in the in-
tendment of our Law, a Com-
mission especially graunted to
certaine men, for the hearing
and determining of one or more
causes,

causes. This was wont to bee in use upon some sodaine outrage or insurrection in any place. *Croningtons Jurisd.* fol. 131. & 132. See *The Statute of Westm.* 2. cap. 29. anno 13. Edv. 1. who might grant this commission. And see *Fitzherb. nat. br.* fol. 100. for the forme and occasion of the writ, as also to whom it is to be graunted, and whom not. See *Broke, titulo, Oyer & determiner.*

Oyer de Record (Audire Recordium) is a petition made in Court, that the Judges for better proofoes sake, will be pleased to heare or looke upon any Record.

P

Packing whites. anno, 1. R. 3. cap. 8.

Pain fort & dure (pœnæ fortis & dura) is in true french (*peine fort & dure.*) It signifieth in our common Lawe, an especiall punishment for those, that being arraigned of felonie, refuse to put themselves upon the ordinary tryall of God and the Countrey, and thereby are mute, or as mute in interpretation of law. This (as *Stawnf.* thinketh, *pl. cor. lib. 2. cap. 60.*) is founded upon the Statute of *Westm.* prim. cap. 12. anno. 3. Ed. prim. His reason is, because *Bracton*, who writ before that Parliament, makeith

no mention of it : and *Britton* writeth after that time, touching it in his 4. chapter, *fol. 11. viz.* in words to this effect : If they will not acquite themselves, let them bee put to their penance untill such time as they do desire tryall : and let the penance bee such : *viz.* Let them bee bare legged, without girdle, and without hatte or cappe, in their coate onely, and lie in prison upon the naked earth day and night. And let them eate no bread, but of barley and bran, nor drinke any other then water, and that upon that day when they eate not. And let them bee chained. *Stawnford* in his said 60. chapter of his second book, expoundeth it more plainly and particularly in this sort. And note, that this strong and hard paine shall be such : *sc.* He shall be sent back to the prison whence he came, and layed in some lowe darke house, where he shall lie naked upon the earth without any litter, rushes, or other cloathing, and without any rayment about him, but only somthing to cover his privie members. And hee shall lie upon his backe with his head covered and his feete. And one arme shall bee drawne to one quarter of the house with a cord, and the other arme to another quarter : and in the same manner let it be

done with his legges : and let there be layed upon his body i-ron and stone , so much as he may beare, or more : and the next day following , hee shall have three morsells of barley bread without drinke : and the second day, he shall have drinke three times : and as much at each time , as hee can drinke , of the water next unto the prison doore , except it be running water , without any bread. And this shall be his dyet untill he die.

Palatine. See *County Palatin.*
See *Cassan. de consuetud. Burg.*
pag. 14.

Palingman, anno 11. Henr. 7.
cap. 22.

Panell (*panellum*) commeth of the French (*panne. i. pellis*, or *paneau*) a peece or pane , as wee call it in English. It signifieth in our common law , a shudle or rolle , containing the names of such Jurors , as the Shyreeve prouideth to passe upon any triall. *Register orig. fol 223. a. Kitchin, fol. 266.* See *Broke, hoc titulo.* And thereupon the empanelling of a Jury , is nothing but the entring of them into the Shyreeves rolle or book.

Pannage (*pannagium*) is a tolle or contribution. *Fitz. nat. br. fol. 227. D.* See *Pawnage.*

Paramounte , alias *peremounte* : commeth of these two French words (*par. i. per.* and (*Monter*

i. ascendere) It signifieth in our law, the highest Lord of the fee : for there may bee a Tenant to a Lord , that houldeth over of another Lord. And the former of those is called , Lord *Mesn* , the second Lord paramount. And a Lord paramount (as it seemeth by *Kitchin, fol. 289.*) consisteth only in comparison ; as one man may be great being compared with a lesser , and little being compared with a greater : and as *Genus* , among the *Logicians* , may be in divers respects both *genus* , & *species*. *Fitzb. nat. br. fol. 135. M.* So that none seemeth simply to be Lord paramount, but onely the King , as *Genus summum* is simply *Genus*. For the King is patron paramount to all the benefices in England , Doctor and student : *ca. 36.* See *Paravaile, Maner. and Fee.*

Paravaile , alias *Peravaile* , is compounded of two French words (*par. i. per.*) and (*avaller. i. dimittere, demittere*) It signifieth in our common law , the lowest tenant , or him that is tenant to one , who holdeth his fee over of another. So is it used, *pl. cor. fol. 197. & Fitzb. nat. br. fol. 135. M.* See *Paramonite.* See *Mesn.*

Parcellmakers , are two officers in the eschequer , that make the parcels of the escheators accoumpts , wherein they charge them

them with every thing they have
leuyed for the Kings use, within
the time of their office, and deli-
ver the same to one of the auditors
of the court, to make an accompt
of the elcheator thereof.

Parceners. See *Coparceners.*

Parcinarie (*participatio*) commeth
of the French (*partir.* i. *di-viduum fatere.*) It signifieth in our
common law, a houlding or occu-
pying of land by more *pro indiviso*,
or by joint tenants, otherwise
called *Coparceners*, of the French
(*parsonier.* i. *partiarius, particeps.*)
For if they refuse to divide their
common inheritance, and chuse ra-
ther to hold it joynly, they are
said to hold in *parcinarie*. *Litl. fol.*
56. & 57. This by the *Feudists*
and *Lombards* is termed (*ad equa-
tio, vel paragium*) And among the
ancient Romanes: *particulones, sic
enim autore Nonio, a veteribus co-
beredes inter se dicebantur, quod
partes invicem facerent.* *Spigelius.*

Pardon (*pardonatio*) is a French
word, signifying as much as *pax,*
venia, gratia. It is used most noto-
riously in our common law, for
the remitting or forgiving of a
felonious or other offence com-
mitted against the King: This
pardon is two-fold: one *ex grati-
a Regis*, the other, *per cours
de ley*, by course of law. *Statu-
pl. cor. fol. 47.* *Pardon ex gratia Re-
gis*, is that, which the King, in

some speciall regard of the per-
son or other circumstance, shew-
eth or affordeth upon his abso-
lute prerogative or power. *Pardon* by course of Law, is that
which the law in equity af-
fordeth, for a light offence,
as homicide casuall, when one
killeth a man having no such
meaning, *W. st. parte 2. symbol. titu-
lo, Inditements. sect. 46.* Of this
see the new booke of Entries, ver-
bo, *Pardon.*

Pardoners, anno 22. H.8. c. 12.
were certain fellowes that carried
about the Popes Indulgences, and
sold them to such as would buy
them, against whom *Luther*, by
Sleydans report, incensed the peo-
ple of *Germany* in his time, exhort-
ing them, *ne merces tam viles tanti
emerent.*

Parke (*parcus*) commeth of
the French (*parquer.* i. *vallio, vel
fossa circundare.*) It signifieth with
us, a piece of grounde inclo-
sed and stored with wild beastes
of chase. Which a man may
have by prescription or the
kings grant. *Cromptons Jurisd.*
fol. 148. *M. Manwood parte pri.
of his Forest lawes. pag. 148.* defineth it thus: A parke is a
place for priviledge for wilde
beastes of venery, and also for o-
ther wilde beastes, that are beastes
of the Forest, and of the chase,
tam sylvestres, quam campestres.
And all those wilde beastes are to

have a firme peace and protection there. So that no man may hurt or chase them within the parke, without license of the owner of the same. Who also fol. 149. saith thus : A parke is of another nature, then either a chace or a warren is. For a parke must be inclosed, and may not lie open : for if it doe, that is a good cause of feisur of the same into the hands of the King, as a thing forfeited : as a free chace is, if it be inclosed. And moreover, the owner cannot have action against such as hunt in his parke, if it lie open. See Forrest. See Chase, See Warren. This word Parke, Baldwinus deriveth a *paradiso*, *cumque locum esse dicit, in quo varia animalia ad usum voluptatis, aut venationis includuntur & possidentur, a dempta naturali libertate.* *Ad tit. de rerum divis. in Institutio-*
nib.

Parco fracto, is a writ which lyeth against him, that violently breaketh a Pound, and taketh out beasts thence, which, for some trespass done upon another mans ground, or lawfully impounded. Register original. fol. 166. Fitzb. nat. br. fol. 100.

Parish (*parochia*) commeth of the greeke (*παροχία*, i. *Accolatum conventus, accolatus, sacra vicinia*) it is used in the Cannon law, sometime for a Bishoprick. But in our common law it signi-

fieh the particular charge of a secular Priest. For every Church is either Cathedrall, Coventuall, or parochiall. Cathedrall is that, where there is a Bishop seated, so called à *Cathedra* : Coventuall consisteth of Regular Clerkes, professing some order of religion, or of Deane and chapter, or other colledge of spirituall men. Parochiall is that, which is instituted for the saying of divine Service, and ministring the holy Sacraments to the people dwelling within a certaine compasse of ground neere unto it. Our Realme was first divided into Parishes by *Honorius Archb. of Canterbury*, in the yeare of our Lord. 635. Cambd. Britan. pag. 104. Of these Parish Churches, I finde there were in England in the dayes of H. 8. the number of 45000. Hotoman in his disputationes de fendi. cap. 2. maketh mention of this word (*parochia*) out of Pomponium Letus in these words: *Nam sic quoq; Pomponius Letus veterem consuetudinem fuisse scribit, tamque ab Imperatore Constantino repetitam, ut Ducibus praefectis, tribunis qui pro augendo Imperio consenserant, darentur agri, villeque, ut necessaria suppetarent, quoad viverent, quas parochias vocabant.* And a little after: *verum inter feuda & parochias hoc interest quod be plerunque sensibus, & veteranis, plerisque emerite militia*

militie dabatur, qui cum de Rep. bene meriti essent, publico beneficio reliquum vita sustentabant: aut si quod bellum nasceretur, evocati non tam milites, quam magistri militum viderentur. Fenda vero plurimum Juvenibus robustis & primo flore etatis, qui militia munus sustinere poterant: in quo vero & ut possent & ut vellent, &c.

Parlement (*parlamentum*) is a French word signifying originally as much as (*Collocutio*) or (*colloquium*) but by use, it is also taken for those high Courts of Justice throughout the Kingdome of France, where mens causes and differences are publickly determined without farther appeale. Whereof there be seven in number: as *Paris*, *Tolouse*, *Gresuoble* in *Daulphine*, *Aix* in *Provence*, *Bordeaux*, *Dixon* in *Bourgogine*, and *Roan* in *Normandy*. *Vincentius Luspanus de Magist. Franc.* lib. 2. cap. *Parlamentum*, num. 28. whereunto *Gerard de Hailon* addeth the eighth. viz. *Rheues* in *Bretagne*.

In England wee use it for the assembly of the King and the 3. Estates of the Realme. viz. the Lords Spirituall, the Lords temporall, and Commons, for the debating of matters touching the Common-wealth, and especially the making and correcting of Lawes, which Assembly or Court is of all other the highest, and of

greatest authority, as you may read in *Sir Thom. Smith. de Re-pub. Anglo. l. c. 1. & 2. Cambd. Britan.* pag. 112. and *Cromptons Jurid. fol. pri. & seqq.* The institution of this Court *Polydor Virgil*, lib. 11. of his *Chronicles*, referreth after a sort to *Henry the first*: yet confessing that it was used before, though very seldome. I finde in the former Prologue of the *Grand Customary of Normandy*, that the Normans used the same meanes in making their Lawes. And I have seene a Monument of Antiquity, shewing the manner of houlding this Parlament in the time of King *Edward the sonne of King Etheldred*, which (as my note saith) was delivered by the discreter sort of the Realme unto *William the Conquerour*, at his commandement, and allowed by him. This writing beginneth thus. *Rex est caput, principium, & finis parlamenti, & ita non habet parem in suo gradu.* Et sic ex *Rege solo primus gradus est. Secundus gradus est ex Archiepiscopis, Episcopis, Abbatibus, Prioribus per Baroniam tenentibus. Tertius gradus est, de procuratoribus cleri. Quartus gradus est de Comitibus, Baronibus, & aliis Magnatibus. Quintus gradus est de militibus Comitatuum. Sextus gradus est de civibus & Bur-*

gensibus : & ita est Parlamentum ex sex gradibus, sed sciendum, licet aliquis dictorum quinque graduum post Regem absens fuerit, dum tamen omnes premoniti fuerint per rationabiles summonitiones, parlamentum nibilo minus censeretur esse plenum. Touching the great authoritie of this Court, I find in *Stowes Annals*, pag. 660. that Henry the sixith directing his privie seale to *Richard Earle of Warwick*, thereby to discharge him of the Captaineship of *Cales*, the Earle refused to obey the Privie Seale, and continued forth the said office, because hee received it by Parliament. But one example cannot make good a doctrine. And of these two one must needs bee true, that either the King is above the Parliament, that is, the positive lawes of his Kingdome, or else that hee is not an absolute King. *Aristotle lib. 3. Politico. cap. 16.* And therefore though it bee a mercifull policy, and also a politique mercie (not alterable without great perill) to make lawes by the consent of the whole Realme, because so no one part shall have cause to complaine of a partiality : yet simply to binde the Prince to or by these lawes, were repugnant to the nature and constitution of an absolute monarchy. See *Bracton, lib. 5.*

tract. 3. cap. 3. num. 3. and Cassi de consuet. Burg. pag. 335. and Tiraquel. in his booke De Nobilitate. cap. 20. pag. 68. num. 26. See the Statute anno 31. Henr. 8. cap. 8. *in proœmio*, and many excellent men more, that handle this point. That learned *Hotoman* in his *Francogallia*, doth vehemently oppugne this ground, as some other that write in corners : but he is so cleane overborne by the pois of reaon, that not onely many meaner men for Learning triumph over him in this case, but himselfe, as I have credibly heard, upon the sight of his fault, cryed God and the world mercy for his offence, in writing that erroneous and seditious booke. The Emperors of Rome had their *semestria consilia*, and their *praetorium* or place of councell, builded by *Augustus* in his Palace, and therupon called (*palatium*) afterward termed (*Consistorium*) where they, as in their principall court, did both determine the greatest sort of their causes, and also made their constitutions. And heere had they assiting them many of the wisest of their Empire, whom *Augustus* first called (*consiliarios*) *Alexander Severus* afterward (*scroniorum principes*) others after that (*palatinos*) and then (*comites consistorianos*)

anos) And these men in this respect, were indued with great honour, and enjoyed many privileges. Yet were but the assistants to the Emperour to advise him, not challenging any power over him, or equall with him. More touching the course and order of this Parliament, see in *Cromptons Jurisd. fol. pri. & seqq;* and *Vowell, alias Hooker*, in his booke purposely written of this matter. See *King.*

Parole (*Loquela*) is a French word, signifying as much as (*Discio, allocutio, sermo, vox*) It is used in *Kitchin, fol. 193.* for a plee in court. It is also sometime joyned with lease, as *Lease parol*, that is, *Lease per parole*, a lease by word of mouth.

Parson (*Parsona*) commeth of the French (*Personne*) It peculiarly signifieth with us, the Rector of a Church: the reason whereof seemeth to bee, because hee for his time representeth the Church, and susteineth the person thereof, as well in siewing, as being siewed in any action touching the same. See *Fleta. lib. 6. ca. 18.* *Parson impersonee* (*persona impersonata*) is hee that is in possession of a Church, whether appropriated or not appropriated, for in the new booke of *Entries*, verbo *Ayde in Annuity*, you have these words. *Et predi-*

citus A. dicit, quod ipso est persona predicta Ecclesie de. S. impersonatas a in eidem ad presentationem E. patronis, &c. So I have reason to think, that *persona* is the patron, or hee that hath right to give the Benefice, by reason that before the *Lateran Councell* hee had right to the tithes, in respect of his liberality used in the erection or endowment of the Church, *quasi sustineret personam Ecclesie*, and hee *persona impersonata*, to whom the benefice is given in the Patrons right. For I reade in the Register *Judicall personam impersonatam*, For the Rector of a Benefice presentative, and not appropriated, *fol. 34. b.* and see *Dyer fol. 40. num. 72.* where hee saith that a Deane and chapter be persons impersonees of a benefice appropriated unto them. who also *fol. 221. num. 19.* plainly sheweth that *persona impersonata* is hee that is indued, and in possession of a Benefice. So that *persona* seemeth to bee termed *impersonata*, onely in respect of the possession that hee hath of the benefice of Rectory, be it appropriated or otherwise by the act of another. And yet I have talked with men of good opinion in the common law, that hold onely the proprietarie of a be-

a benefice to be the person personee. But if that were true, hee should rather be called person *parsonnier*: i. *particularius vel particeps fructuum*, because the Vicar hath some part toward his paines in serving the cure. For (*parsonnier*) in the french tongue, is (*particularius*) or (*particeps*.)

Partes finitibil habuerunt, &c. is an exception taken against a fine levied. *Cookes reports lib. 3.* the case of fines fol. 88. a.b.

Parters of gold and silver. See *Finours*.

Partitione facienda, is a writ that lieth for thos, which hold lands or tenements *pro indiviso*, and would sever to every one his part, against him or them that refuse to joyne in partition as Coparceners and Tenents in Gavel kind, *ould. nat. br. fol. 142.* *Fitzb. nat. br. fol. 61.* *Register orig. fol. 76. 316.* and *Register judiciall, fol. 80.* and the new booke of *Entrie. verbo partitione*.

Part let, seemeth to be some part of a mans attire, as namely, some loose collar of a dublet, to be set-on or taken off by it selfe, without the bodies, as mens bands, or womens neckerchiefs be, which are in some places, or at least have beene within memory, called partlets. This word is read in the Statute, anno

24. H. 8. ca. 13. and seemeth to bee [a] diminutive of the word (*part*.)

Parvo numento is a writ. See *Nassance*.

Passage (*passegium*) is a french word, signifying *transitum, transi-
onem, meatum*. It signifieth in our common law, the hire that a man payeth for being transported over sea, anno 4. Edw. 3. cap. 7. or over any river. *Westm. 2. cap. 25.* anno 13. Ed. pri.

Passagio, is a writ to the keepers of ports, to let a man passe over, that hath license of the King, *Register original. fol. 193. b. 194.a.*

Passeport is compounded of two french words (*Passer* i. *perambulare, transire*) and (*port* i. *portus*) It signifieth with us, a licence made by any that hath authority, for the safe passage of any man from one place to another. anno 2. Ed. 6. ca. 2.

Pashage, passegium. See *Pawnage*.

Patent (*litera patentes*) is different from a writ, *Cromptons Jurisd. fol. 126.* The Coroner is made by writ, and not by patent. See *Letters patents*. See also *Litere patentes* in the table of the Register, where you shall finde the forme of divers patents.

Patron (*Patronus*) is used in the

the Civile law, for him that hath manumitted a servant, and thereby is both justly accompted his great benefactor, and challengeth certaine reverence and duty of him during his life : see the title *De jure patronatus* : in the Digest : with the Feudists it is used *pro auctore feudi*. *Hotom.* verbo *Patronus*, in his commentary *de verbis feudal*. In the canon law, as also in the feuds, and our common law, it signifieth him that hath the gift of a benefice. And the reason is, because the gift of Churches and benefices originally belonged unto such good men, as either builded them, or else endowed them with some great part of the revenew belonging unto them. *De jure patronatus* in the *Decretals*. Such might well be called Patrons, as builded the Church, or enriched it : but these that now have the guift of a benefice, are more commonly patronized by the Church, though against her will, alwayes selling their presentations as deerely as they can : and therefore may bee called *Patroni a patrocinando*, as *Mons à mouendo*. *Patronum faciunt dos, adificatio, fundus*, saith the old verse of lay patrons one wri-
teth thus. *Quod autem a supremis pontificibus proditum est. (ea. cum dilectus, extra de jure patronatus) laicas habere presentan- di clericos Ordinariis : hoc singula-*

*ri favore sustinetur, ut alle- Elentur laici, invitentur, & inducan- tur ad constrictionem ecclesiarum (c. quoniam. eodem) Nec omni ex parte jus patronatus spirituale cen- seri debet, sed temporale potius spiri- tuali annexum (glo. in. c. pie- mentis. 16. qu. 7.) These be Cor- rasius words in his paraphrase *ad sacerdotiorum materiam*, parte pri. cap. 2. & parte. 4. cap. 6. in principio, hee thus writeth of the same matter. *Patroni in jure Ponificio dicuntur qui alicuius ecclie extruende, aut alterius cuiusunque fundationis ecclesiastice autores fuerint, ideoque praesentandi & offerendi clericum jus habent, quem ecclie vacanti praesse, & in ea collatis redditibus frui velint.* *Acquirunt autem hoc jus, qui de Episcopi consensu vel fundant eccliam, hoc est, locum in quo templum extruitur, assignant, vel eccliam adificant, vel etiam constructas ecclesias ante consecra- tionem dotant, ut non valde sit obscurum, jus patronatus quo de agimus, finire, jus esse praesentandi clericum ad eccliam vacan- tem ex gratia ei concessum, qui consentiente Episcopo, vel construxit, vel dotavit eccl- siam.**

Pannage (Pannagium, alias pas- nagiun) or (pennagium) as it is latined (in pupilla oculi) may be probably thought to come of the French (panez) or (panets) which

is a root something like a parsnep, but somewhat lesse and ranker in taste, which hogs in France feed upon, though it be eaten by men also; and the French may seem to come of the Latine (*panicium*) i. that which men use in the stead of bread (*Isidorus*) or (*panicum*) of the French. It signifieth in our common law, the money taken by the *Agistors* for the feede of hoggs with the mast of the Kings forest. *Cromp. Jurisd.* fol. 165. *West.* 2. cap. 25. anno 13. *Edv. pri.* with whom *M. Manwood parte pri.* of his forrest lawes, agreeth in these words: *Agistment* is properly the common of herbage of any kinde of ground or land, or woods, or the money due for the same: and *pawnage* is most properly the mast of the woods, or lands, or hedge rowes, or the money due to the owner of the same for it. But this learned man in his second part. cap. 12. where he writeth at large of this, deriveth the word from the Greeke *τανιζειν*: at the which (I thinke) he smiled himselfe when hee set it downe. *Lindwood* defineth it thus : *Panagium est pastus pecorum in nemoribus & in sylvis, ut-pote de glandibus & aliis fructibus arborum sylvestrium, quarum fructus aliter non solent colligi. titulo de decimis. cap. sancta verb. Panagiis. M. Skene de verbo-*

rum signif. calleth it *pennagium*, and defineth it to be the duty given to the King for the pasturage of swine in the Forrest. The french word for his same thing is (*panage*) or (*glandee*) i. *glandatio, vel glandium collectio, & pastio sum ex glandibus.* And wee surely take it from the French, whence they had it, or what etymologie they make of it, let themselves looke.

Peace (pax) in the generall signification is opposite to war or strife. But particularly it signifieth with us, a quiet and harmlesse carriage, or behaviour, toward the King and his people. *Lamb. cirenarcha. li. 1. cap. 2. pag. 7.* And this is one way provided for all men by oath, as you may read in *Franck pledge*, but more especially in case, where one particular man, or some few goe in danger of harm from some other. For upon his oath made thereof before a Justice of peace, he must be secured by good bond. See *Lamb. cirenarcha. l. 2. c. 2. p. 77.* See also *Cromptons Justice of peace*, fol. 118. b. &c. usq; f. 129. This among the Civilians is called *cantio de non offendendo. Gsil de pace publ.lib.pri. c. 2. nu. 1.*

Peace of God and the Church, (*pax Dei & ecclesie*) is anciently used for that rest which the Kings subjects had from trouble and suite of law, betweene the termes

termes, See *Vacation*.

Peace of the King. anno. 6. R. 2. stat. pri. ca. 13. is that peace and securitie both for life and goods, which the King promiseth to all his subjects or others taken to his protection. See *Suite of the Kings peace*. This point of policy seemeth to have beene borrowed by us from the Feudists, for in the second book of the feuds, there is a chapter viz. the 53. chapter intituled thus. *De pace tenenda inter subditos, & juramento firmando, & vindicanda, & de pena iudicibus opposita, qui cum vindicare & institiam facere neglexerint*, the contents of which chapter, is a Constitution of *Fredericke* the first, as *Hotoman* there prooveth, expounding it very learnedly and like himselfe. Of this Kings peace, *Roger Hoveden* setteth down divers branches, parte poster. suorum annalium in Hen. 2. fol. 144. a.b. and fol. 430. b. he mentioneth a forme of an oath which *Hubert* Archbishop of *Canterburie*, and chiefe Justice of *England* in R. the first his daies, sent through the whole realme, to be taken by the Kings subjects. See *Decinnes*. See *Surety of peace*. There is also the peace of the Church, for which, see *Sanctuary*. And the peace of the Kings high way, which is the immunity that the Kings high

way hath, from all annoyance or molestation. See *Watlin street*. The peace of the plowe, whereby the plowe and plowe cattell are secured from distresses. For which, see *Fitz. nat. br. fol. 90. A. B.* So Fayres may be said to have their peace, because no man may in them be troubled for any debt elsewhere contracted. See *Fayre*.

Pedage (*pedagium*) signifieth money given for the passing by foot or horse through any country. *extra de Censibus, ca. Innovamus*. I read not this word in any English writer, but only the author of the booke called *pupilla oculi parte 9. ca. 7. A. D.* I thinke wee rather use passage for it. *Pedagia dicuntur que dantur à transcurrentibus in locum constitutum à principe. Et capiens pedagium debet dare salutem conductum, & territorium ejus tenere secundum. Baldus in usibus Feudorum. de pa. jura fir. sect. Conventionales. Lassau. de consuetud. Burg. pag. 118.* hath these words, *Pedagium à pede dictum est, quod à transcurrentibus solvitur, &c.*

Peere (*pila*) seemeth properly to bee a fortresse made against the force of the sea, for the better security of ships, that lye at harbour in any haven. So is the peere of *Dover* described in *M. Caud. Brit. pag. 259. in meo.*

Peeres (pare.) commeth of the French (*per. i. par.*) it signifieth in our common law, plurally those, that are empaneled in an Enquest, upon any man for the convicting and clearing him of any offence, for the which hee is called in question. And the reason thereof is, because the course and custome of our nation is, to trie every man in this case by his equals. *West. prim. cap. 6. anno 3. Edw. prim.* So Kitchin useth it fol. 78. in these words : *Mais si le amerciamment soit assire per pares.* And this word in this significacion, is not in use with us onely, but with other nations also. For *pares sunt conversalli, quorum sententia vasallus propter felonium est condemnatus.* *Barklaus de Regno, lib. 4. cap. 2.* *Et pares sunt qui ab eodem domini feudem tenent,* *lib. prim. Feudor. cap. 26.* But this word is most notoriously used for those that be of the Nobility of the Realme, and Lords of the Parliament, and so it is used in *Statu[m] pl. of the Crowne, lib. 3. cap. Triall per les Peeres,* being the first. The reason whereof is, because though there be a distinction of degrees in our Nobility, yet in all publike actions, they are equall : as in their voices in Parliament, and in passing upon the tryall of any Noble man, &c. This appellation seemeth to be borrowed from *Fraunce*,

and from those twelve Peeres, that *Charles the Great (or Lewis the younger, in some mens opinion)* instituted in that kingdome, which be next unto the King, and are of like dignitie among themselves touching their power in publike affaires. Of whom you may reade *Vincen-tius Lupanus de magist. Francie lib. 1. cap. Pars Francie.* So that wee, though wee have borrowed the appellation, and applied it with some reason to all that are Lords of the Parliament, yet we have no set number of them, because the number of our Nobles, may be more or lesse ; as it pleafeth the King.

Pelota, is a word used in the booke called (*pupilla oculi*) *parte 5. ca. 22.* signifying the ball of the foot, of the French (*pelote.*) *i. pila.*

Pein fort & dure. See *Pain fort & dure.*

Pelt wolle, is the woll pulled off the skinne or pelt of dead sheepe, *anno 8. H. 6. cap. 22.*

Pennon, *anno 11. R. 2. cap. prim.* is a Standard, Banner, or Ensigne, carried in warre. It is borrowed from *Fraunce* : for *pennon* in the French language signifieth the same thing. See *Baneret* : yea read this word, *anno 11. R. ca. 1.*

Penue: See *Baye*.

Peper (*Piper*) is a spice known in a manner to every childe, beeing the fruit of a plant, that is betweene a tree and an hearbe : of whose diversities and nature you may reade *Gerards herball*, lib. 3. cap. 146. This is set among merchandize that are to be garbled. anno 1. *Jacob.* cap. 19.

Peper lowse, anno 32. *H.* 8. cap. 14.

Per, cui, & post. See *Entrie*.

Perambulacione facienda, is a writ that is fiewed out by two or more Lords of maners, lying neere one another, and consenting to have their boundes severally knowne. It is directed to the Shyreeve, commanding him to make perambulation, and to set down their certaine limits between them. Of this read more at large in *Fitz. nat. br.* fol. 133. See *Rationalibus divisis*. See the *Regist.* orig. fol. 157. and the new book of Entries, verbo, *Perambulations facienda*.

Perche (*pertica*) is a French word, signifying a long pole. It is used with us for a rodde or Pole of Sixteen foote and a halfe in length. Whereof Fourty in length, and foure in breadth make an acre of ground. *Cromptons Jurisdict.* fol. 222. Yet by the custome of the countrie it may be longer, as he there saith. For in the Forrest of

Sheerwood it is 25. foot, fol. 224. *M. Skene de verbor.* signif. verbo, *Particata terra*, saith, that *particata terra* is a Roode of land : where hee hath also these words in effect : Three beere cornes without tailes set together in length, make an inch : of the which cornes one should be taken of the middle ridge, another of the side of the ridge, another of the furrow. Twelve inches make a foot of measure : three foote and an inch make an elne ; sixe elnes long make one fall, which is the common lineall measure, and sixe elnes long, and sixe broad, make a square and superficiall fall of measured land. And it is to be understood, that one rod, one raip, one lineall fall of measure, are all one, for each one of them containeth sixe elnes in length. Howbeit, a rod is a staffe or pole of wood, a raipe is made of tow or hempe. And so much land as falleth under the rod or raipe at once, is called a fall of measure, or a lineall fall : because it is the measure of the line or length only. Like as the superficiall fall is the measure both of length and bredth. *Item*, ten falls in length, and foure in breadth, make a Roode ; foure Roodes make an acre, &c. This is the measure of Scotland, whereof you may read more in the same place.

Perdonatio ut lagarie, in the Register judiciall, fol. 28. is the forme of pardon for him, that for not comming to the Kings court is out-lawd, and afterward of his own accord yeeldeth himselfe to prison.

Peremptorie (*peremptorius*) commeth of the verbe (*perimere*) to cut off, and joyned with a substantive (as action or exception) signifieth a finall and determinate act without hope of renewing. So *Fitzb.* calleth a peremptory action, *nat. br.* fol. 35. *P.* fol. 38. *M.* fol. 104. *O. Q. R.* fol. 108. *D. G.* and *non-suite peremptorie*. *idem codem*, fol. 5. *N. F.* fol. 11. A peremptory exception. *Braclon* li. 4. cap. 20. *Smith de rep. Anglo-rum*, li. 2. cap. 13. calleth that a peremptory exception, which can make the state and issue in a cause.

Perinde valere, is a dispensation granted to a Clerke, that being defective in his capacity to a benefice or other ecclesiastical function, is *de facto* admitted unto it. And it hath the appellation of the words which make the faculty as effectuall to the party dispensed with, as if he had been actually capable of the thing, for which hee is dispensed with, at the time of his admission.

Perkins, was a learned Lawyer, fellow and bencher of the inner Temple, that lived in the daies

of *Edw. the 6.* and *Queene Mary*. He wrote a booke upon divers points of the common law of very great commendation.

Permutatione Archidiaconatus & ecclesie eidem annexe, cum ecclesia & prebenda, is a writ to an Ordinary commanding him to admit a clerke to a benefice, upon exchange made with another : *Regist. orig. fol. 307. a.*

Pernour, of profits, commeth of the French verb (*prendre. i. accipere*) and signifieth him that taketh: as *pernour of profits*, anno 1. *H. 7. ca. pri. Pernour de profits*, & cestis que vse is all one, *Coke. li. i. casu Chudley. fol. 123. a.* See *Pernour*, anno 21. *R. 2. ca. 15.*

Per quæ servitiae is a writ judiciall issuing from the note of a fine, and lyeth for the cognizee of a maner, seignory, chiefe rent, or other services to compell him that is tenant of the land at the time of the note of the fine levied, to atturne unto him. *West. parte 2. symbol. titulo Fines. Sect. 126.* To the same effect speaketh the old *nat. br.* fol. 155. See also the new booke of Entries. *verbo per quæ servitiae.*

Perquisite (*perquisitum*) signifieth in *Braclon*, anything purchased, as *perquisitum facere. lib. 2. cap. 30. numb. 3. & lib. 4. cap. 22.* perquisites of court, be those profits that grow unto the Lord of a maner, by vertue of his Court

Court Baron, over and above the certaine and yearely profits of his land, as escheats, mariages, goods purchased by villeines, fines of copie holds, and such like. New termes of the law.

Person. See *Parson.*

Personable, signifieth as much as inhabited to hold or maintaine plee in a court. For example: the demaundant was judged personably to maintaine this action. *old nat. br. fol. 142.* and in *Kitchin* fol. 214. The tenent pleaded that the wife was an alien borne in *Portingall* without the liegeance of the King, and judgement was asked whether shee would be answered. The plaintiff saith: she was made personable by Parliament, that is, as the Civilians would speake it, *habere personam standi in iudicio*. Personable is also as much as to be of capacity to take any thing granted or given. *Plowden, casu Colthirst. fol. 27. b.*

Personall (*personalis*) hath in our common law, one strange signification, being joyned with the substantive, things, goods, or Chatels: as things personall, goods personall, Chatels personall, for thus it signifieth any corporeall, and moveable thing belonging to any man, be it quicke or dead. So it is used in *Westm. par. 2. symbol. titulo Indictemens, sect. 58.* in these words. Theft is an un-

lawfull felonious taking away of another mans moveable personall goods. And again, *fol. 61. Larceny* is a felonous taking away of another mans moveable personall goods; and *Kitchin fol. 139.* in these words: Where personal things shall be given to corporation: as a horse, a cow, an oxe, sheep, hogs, or other goods, &c. and *Stawnford. pl. cor. fol. 25. Contrectatio rei alienae*, is to be understand of things personal: for in things reall it is not felony, as the cutting of a tree is not felony. The reason of this application, see *Chattell.*

Personalty (*personalitas*) is an abstract of personall. The action is in the personalty, *old. nat. br. fol. 92.* that is to say, brought against the right person, or the person against whom in law it lieth. I find these contrarie words (*Personalitas & impersonalitas*) in the authour of the booke called *vocabularius utriusq; juris*: as for example, *Personalitas significatur per has dictiones, tu, mibi, ego, tibi, cum alio significatio quod probabiliter concluditur: & si nullo modo concludatur, tunc est impersonalitas, quia actum vitiatur, prout ratio dicitur. verbi gratia, ego stipulor: constituis te mibi solutum debitum à Titio mibi debitum. Tu respondeas, Satisfiet. Hec impersonalitas non contrahit obligacionem.*

Persons ne Prebendaries ne sequunt

ront, charges as quinsimes, &c. is a writ that lyeth for prebendaries or other spirituall persons, being distreined by the shyreeve, or collectors of fifteenths, for the fifteenth of their goods, or to be contributory to taxes. *Fitzb. nat. br. fol. 176.*

Pesturable wares, seeme to bee such wares, as pester and take up much roome in a shipp, *anno 32. H. 8. cap 14.*

Peter pence (*Denarii Sancti Petri*) otherwise called in the Saxon tongue *Romescoth* i.e. the fee of Rome, or due to Rome, and also *Romescot* and *Rome penning*, was a tribute given by *Inas* King of the West Saxons being in pilgrimage at Rome, in the yeere of our Lord 720. which was a penny for every house. *Lambersds* explication of Saxon words. *verbo Numus.* whom see also *fol. 128. in S^t Edw. lawes. m. 10.* where it is thus written. *Omnis qui habent. 30. denariatus vivae pecunie in domo sua de suo proprio, Anglorum lege dabit denarium Sancti Petri & lege Danorum, dimidiam markam: Iste vero, denarius debet summoniri in solemnitate Apostolorum Petri & Pauli, & colligi ad festivitatem, quae dicitur ad vincula: ita ut ultra illum diem non dñeatur. Si quis piam detinuerit, ad Justiciam Regis clamor deferatur. quoniam denarius hic Regis eleemosyna est,*

Justicia verò faciat denarium redere, & foris facturam Episcopi & Regis. Quod si quis domos plures habuerit, de illa, ubi residens fuerit in festo Apostolorum Petri & Pauli denarium reddat. See also *King Edgars lawes, fol. 78. cap. 4.* which containeth a sharpe constitution touching this matter. *Stow. in his Annals, pag. 67.* saith, that he that had 20. peniworth of goods of one manner cattell in his house, of his owne proper, was to give a penny at Lammas yearly. See *Romescot.*

Petit Cope. See *Cope.*

Petit Larceny (*parvum latrociniuum*) See *Larceny.*

Petit treason (*parva traditio*) in true French is (*petit trahison. i. proditio minor*) treason in a lesser or lower kinde. For whereas treason in the highest kinde, is an offence done against the security of the common wealth, *West. parte. 2. symb. titulo Inditement, sect. 63.* petit treason is of this nature, though not so expresly as the other. Examples of petit treason you shall find to be these: if a servant kill his master, a wife her husband, a secular or religious man his prelate, *anno 25. Edw. 3. cap. 2.* Whereof see more in *Stawn. pl. cor. lib. 1. cap. 2.* See also *Cromptons Justice of peace, fol. 2.* where hee addeth divers other examples to those of *Stawnford.* For the puni-

nishment of petit treason, see the statute, *an. 22. H.8. cap. 14.* and *Crompton ubi supra.*

Petition (*petito*) hath a general signification for all intreaties made by an inferiour to a superiour, and especially to one having jurisdiction: But most especially it is used for that remedie, which the subiect hath to helpe a wrong done, or pretended to be done by the King. For the King hath it by prerogative, that he may not be siewed upon a writ. *Stat. prer. cap. 15.* whom also reade *cap. 22.* And a petition in this case is either generall, or speciall. It is called generall, of the generall conclusion set down in the same, *viz. que le Roy lui face droit & raison*, that the King doe him right and reason: whereupon followeth a generall indorsement upon the same, *sotient droit fait aux partis*, let right be done to the parties. *Petition* speciall is, where the conclusion is speciall for this or that: and the Indorsement to this is likewise speciall. See the rest *cap. 22.*

Petra lane, a stone of wooll. See *Stone.*

Philiser, See *Filazer.*

Picage (*piccagium*) is money paid in faires for breaking of the ground to set up boothes or standings.

Pickle, alias *pitle*, seemeth to come from the Italian (*piccolo vel picciolo*. i. *parvus, minutus*) and signifieth with us a little small close, or inclosure.

Pienour, commeth of the French (*Pionnier* i. *fosfor*) and signifieth such labourers, as are taken up for the Kings host, to cast trenches, or undermine forts. *anno 2. & 3. Ed. 6. cap. 20.*

Piepowders court (*Curia pedis pulverizati*) comes of two French words (*pied*. i. *pes*) & *pouldreux* i. *pulverulentus*) It signifieth a court held in faires for the redresse of all disorders committed within them: which because it is summary, *de plano, & sine figura judicij*, it hath the name of dustie feet, which we commonly get by sitting neere the ground: of this see *Cromptons Jurisd. fol. 221.* Read *M. Skene de ver. signif. verbo Pedepulversus*: which word hee reporteth to signifie a vagabond, especially a merchant, which hath no place of dwelling, where the dust may bee wiped off his feet or shooes, and therefore must have justice summarily ministred unto him, *viz.* within three flowings and three ebbings of the sea. *Braek calleth it Justitiam pepoudroux*, li. 5. tract. 1. c. 6. nro. 6. Of this court reade the statute *anno 17. Edw. 4. ca. 2.*

Pile of Foddray, in the countie of *Lancaster*, *anno 2. H. 6. ca. 5.*

seemeth to bee a creeke, and called pille by the ideo[n] of the countrey for pile; for the which see *Pile*.

Pillorie (*Collistrigium, Pillorium*) commeth of the French (*Pillorie*) which may seem to smell of the greek, and to proceed from (*πυλη*) because one standing on the pillory, putteth his head through a kind of doore, i. *janua*; *οργάνω* i. *video*: it signifieth all one thing with it, saving that the French is used for a tumbrell, as well as for that which wee call the pillorie. there is a statute made of the pillory, anno 51 H. 3. wherein you may see who were then subject to this punishment. This was among the Saxons called *Healsfang*, of (*Heals*) a necke, and (*Fang*) to take, Lamb. explication of Saxon words, verbo *Multa*.

Pipe (*pipa*) seemeth to bee a rolle in the exchequer, otherwise called the great roll, anno 37 Ed. 3. cap. 4. See *Clerke of the pipe*. It is also a measure of wine or oyle, containing halfe a tunne, that is sixe score & sixe gallons, anno 1 R. 3. cap. 13.

Piscarie (*piscaria*) commeth of the french (*pescharie*. i. *piscatio*) it signifieth in our common law, a libertie of fishing in an other mans waters.

Pittle. See *Pick*.

Placard, anno 2. & 3. Pb. & Mar. cap. 7. is a licence whereby a man is permitted to maintain unlawfull games.

Plaint (*Querela*) is a french word, signifying as much as *questus, querimonia*. In our common law, it is used for the propounding of any action personall, or reall in writing. So it is used in *Brook, titulo*. *Plaint in Assise*; and the party making this plaint, is called plaintife: *Kitchin*, fol. 23.

Plea (*placitum*) commeth of the French (*ploid*. i. *litis, controversia*). It signifieth in our common law, that which either party alleadgeth for himselfe in court. And this was wont to bee done in French from the Conquest, untill Edward the 3. who ordained them to be done in English: a. 36. cap. 15. Pleas are divided into pleas of the Crowne, and common pleas. Pleas of the Crowne in Scotland be 4. robbery, rape, murder, and wilfull fire, *Skene de verb. sign. verb. Placitum*. with us they bee all suites in the Kings name, against offences committed against his Crowne and dignity. *Statut. pl. cor. cap. 1.* or against his Crowne and peace. *Smith de Répub. Angl. li. 2. cap. 9.* And those seem to be treasons, felonies, misprissons of either, and mayhem. For those onely doth that reverend Judge

Judge mention in that tractat. Common pleas bee those that bee held between common persons. Yet by the former definitions, these must comprise all other, though the King bee a partie. Plea may farther bee divided into as many branches as Action, which see. For they signifie all one. Then is there a Forein plea, whereby matter is al leadged in any Court that must be tryed in another. As if one should lay Bastardy to another, in a court Baron. *Kitchin.* fol. 75. The word (*placitum*) is used by the Commentoures upon the Feuds in the same signification that pleas bee with us. And (*Placitariae*) with them is (*litigare, & causas agere.* *Hotom.* in verb. feudal. verb. *Placitare.*

Pledge (*Plegius*) commeth of the French (*Pleige.* i. *fidejusso*r) *Pleiger* *aucun.* i. *fidejubere pro aliquo.* In the same signification is *Plegius* used by *Glanvile.* *Libro decimo,* *capite quinto*, and *Plegatio* for the act of suretisship in the interpreter of the Grand Custumary of Normandy, *capite 60.* *Plegii dicuntur per-* *sonae que se obligant ad hoc,* *ad quod qui eos mittit tene-* *batur.* And in the same booke, *capit. 85.* & *90.* *Plegiatio* is used as *Glanvile*

before doth use it. *Salvi plegii*, hee used for *Plegii, pu-* *pill. oculi, parte quint. cap-* *pit. 22. Charta de Foresta.* This word *Plegius* is used also for *Franke pledge* sometime, as in the end of *Wil-* *liam the Conquerours Lawes* set out by Master *Lambard in* *his Archaiorum.* fol. 125. in these words. *Omnis homo qui* *vulnerit se tenere pro libro, sit* *in plegio, ut plegius cum ba-* *beat ad Justiciam, si quid of-* *fenderit, &c.* And these bee called capitall pledges. *Kit-* *chin.* folio decimo. See *Franke* *pledge.*

Plena forisfactura, and *plena vi-* *ta*, see *Forfeiture.*

Plegiis acquietandis is a writ that lyeth for a surety against him, for whom hee is surety, if he pay not the money at the day. *Fitzherb. nat.* br. fol. 137. *Regist. originall.* 158. a.

Plenartie, is an abstract of the adjective (*plenus*) and is used by our common Lawyers in matters of benefices. Wherein *plenarty* and *vacation* bee merely contrary. *Stawiford.* *prerogativ. cap. octa-* *vo.* fol. 32: *Westm. secundo, cap-* *pit. quint. anno 13. Edvard.* *prim.*

Flevin (*plevina*) commeth of the French (*plevine* i. *sponsi.*

See *Replevin.*

Plite of Lawne, &c. an. 3. Edw. 4. c. a. 5. seemeth to be a certaine measure, as a yard, or elle, &c.

Plonkets anno 1. R. 3. cap. 8. is a kinde of wollen cloth.

Pluries, is a writ that goeth out in the third place. For first goeth out the originall *Capias*: which if it speed not, then goeth out the *Sicut alias*: and if that faile, then the *Pluries*. See *old nat. br. fol. 33.* In the writ *De excom. capiendo*, see in what diversity of cases this is used in the Table of the *original Register.*

Pole. See *Perch.*

Polein, anno 4. Ed. 4. cap. 7. seemeth to be a sharpe or picked toppe set in the fore-part of the shooe or boote. This fashion was first taken up in *Richard* the seconds dayes, the pickes being made so long as they were tyed up to the knees with silver or golden chaius, and forbidden by *Edw.* the fourth.

Stow. pag. 4.

Policy of assurance, is a course taken by those which do adventure wares or merchandize by sea, whereby they, loath to hazard their whole adventure, doe give unto some other a certaine rate or proportion, as tenne in the hundred, or such like, to secure the safe arivall of the ship, and so much wares at the place

agreed upon. So that if the ship and wares do miscary, the assurer maketh good to the venturer so much as hee promised to secure, as 20. 30. 100. more or lesse: and if the ship doe safely arive, hee gaineth that clearely which the venturer compoundeth to pay him. And for the more even dealing between the venturer and the securer in this case, there is a certaine Clerk or officer ordained to set downe in writing the summe of their agreement, that they afterward differ not between themselves upon the bargaine. This is in course Latine else where called *asscuratio*, This Terme you have anno 43. *Eliz. cap. 11.*

Pondage. See *Poundage.*

Pone, is a writ whereby a cause depending in the County court, is removed to the common Banke. *old nat. br. fol. 2.* See in what diversitie of cases it is used, in the table of the *Original Register.*

Pone per vadimus, is a writ commanding the Shyreeve to take surety of one for his appearance at a day assigned: of this see five sorts in the table of the *Register Judic. verbo*, *Pone per vadimum.*

Ponendis in Affisis, is a writ founded upon the statute of *Westm. 2. c. 38.* and upon the statute *Articuli super chartas, c. 9,* which statutes do shew, what per-

Persons, Vicounts ought to impannel upon Assizes, and Juries, and what not : as also what number he should empanell upon juries and Inquests, which see in the *Regist.* orig. fol. 178. a. and in *Fitz. nat. br.* fol. 165.

Ponendo in ballum, is a writ whereby to will a prisoner held in prison to be committed to baile in in cases baylable. *Regist. orig. fol. 133. b.*

Ponendo sigillum ad exceptiōnem, is a writ whereby the King willeth Justices, according to the statute of West. 2. to put their seales to exceptions laid in against the plaintiffs declaration by the defendant.

Pontage (*pontagium*) is a contribution toward the maintenance or reedifying of bridges. *Westm. 2. cap. 25. anno 13. Ed. pri.* It may be also tolle taken to this purpose of those that passe over bridges, *anno 39. Eliz. cap. 24. anno 1. H.8. cap. 9.* and see the statute *anno 22. H.8. cap. 5.*

Ponibus reparandis, is a writ directed to the Shyreeve, &c. willing him to charge one or more to repaire a bridge, to whom it belongeth. *Register orig. fol. 153. b.*

Portgreve (*portgrevius*) is compounded of two words (*port*) & (*grave*) or (*grave*) i. *prefectus*. It signifieth with us the chiefe magistrate in certaine coast townes,

and as *M. Camden* saith in his *Britan. pag. 325.* the chiefe magistrate of *London*, was termed by this name : in stead of whom *Richard* the first ordeined two Bayliffes : but presently after him, King *John* granted them a Major for their yeerely Magistrate.

Porter of the doore of the Parliament house, is a necessary officer belonging to that high court, and enjoyeth the priviledges accordingly. *Cromptons juris d. fol. 11.* *Porter in the circuit of Justices*, is an officer that carryeth a verge or white rod before the Justices in *Eyre*. so called, *a portando virgam, anno 13. Ed. 1. ca. 24.*

Porter bearing verge (*virgator*) before the Justices of either bench, *anno 13. Edv. 1. cap. 41.* See *Vergers*.

Portomote, is a word compounded of (*port* i. *portus*) and the Saxon (*Gemettan* i. *convinire*) or of the French (*mot* i. *dictio, verbum*) It signifieth a Court kept in haven-townes, as *Swainmot* in the forest *Manwood*, *parte prim.* of his forest lawes, *pag. 111.* it is sometimes called the *Portmoot Court, an. 43. Eli. ca. 15.*

Portsale, *an. 35. H.8. cap. 7. i.* sale of fish presently upon returne in the haven.

Possession (*possessio*) is used two wayes in our common law. First for lands and inheritance : as, he is a man of large possessions. In

which signification it is also used among the Civilians sc : for the thing possessed, *l. possessionum*: *Cod. commun. utrisque Judic.* Next, for the actuall enjoying of that, which either in truth or pretence is ours. And in this signification, there is possession indeed, and possession in law: *pl. cor. fol. 198.* The example there is this : before or untill an office bee found, the King hath only possession in law, and not in deed, speaking of the lands escheated by the attainer of the owner. See *Prerog. fol. 54 & 55.* In this signification also there is an unitie of possession, which the Civilians call *Consolidationem*. Take an example out of *Kitchin, fol. 134.* if the Lord purchase the tenancy held by Heriot service, then the Heriot is extinct by unity of possession : that is, because the seigneurie and the tenancy bee now in one mans possession. Many divisions of possession you may reade in *Braeton. lib. 2. cap. 17. per totum.*

Post. See *Per.*

Post diem, is a returne of a writ after the day assigned for the returne : for the which the *Custos brevium* hath foure pence, whereas hee hath nothing, if it be returned at the day : or it may be the fee taken for the same.

Post fine, is a duty belonging to the King for a fine formerly acknowledged before him in his Court which is paid by the cognizee, after the fine is fully passed, and all things touching the same wholly accomplished. The rate thereof, is so much and halfe so much, as was paid to the King for the fine, and is gathered by the Shyreeve of the County where the land &c. lyeth, whereof the fine was levied, to be answered by him into the Exchequer.

Post terme, is a returne of a writ, not onely after the day assigned for the returne thereof, but after the terme also, which may not bee received by the *Custos brevium*, but by the consent of one of the Judges: it may be also the fee which the *Custos brevium* taketh, for returne thereof, which is twenty pence.

Postea is a word used for a matter tryed by *Nisi prius*, and returned into the Court of common pleas for Judgement and there afterward recorded. See *Plowden, casu Saunders. fol. 211.* a. See an example of this in Sir Edw. Cokes reports. *volum. 61 Rowlands case. fol. 41. b. & 42.* a. See *Custos brevium.*

Post differens (*post dessetima*) is a writ given by the Statute of *W. 2. cap. 26.* and lyeth for him that having

having recovered lands or tenements by (*precipe quod reddat*) upon default, or reddition, is a gaine disseised by the former disseisour. *Fitzb. nat. br. fol. 190.* see the writ that lyeth for this in the *Register originall*, fol. 208. a.

Posteriority (*posterioritas*) is a word of comparison and relation in tenure, the correlative whereof is *prioritie*. For a man holding lands or tenements of two Lords, holdeth of his auncienter Lord by prioritie, and of his later Lord by posterioritie. *Stawn. prerog. fol. 10. & 11.* when one tenant holdeth of two lords, of the one by prioritie, of the other by posterioritie. *Sec. old nat. br. fol. 94.*

Pourchase (*perquisitum*) commeth of the French (*pourchasser*, i. *sollicitare, ambire*:) it signifieth the buying of lands or tenements with money, or other agreement, and not the obtayning of it by title or descent. *Conjunctum perquisitum.* Joyn purchase. *Regist. originall. fol. 143. b.*

Pour faire proclamer s. que nul enjek fives ou bordures en fosses ou rivers pres cities, &c. is a writ directed to the Major, Shyreeve, or Bayliffe of a Citie or Towne, commanding them to proclaime, that none cast filth into the ditches, or places neare adjoy-

ning: and if any be cast already, to remove it. This is founded upon the statute, *an. 12. Ricb. 2. c. 13. Fitz. nat. br. fol. 176.*

Pourparty (*propars, propartis, vel propartiz*) is contrary to (*pro indiviso*) For to make pourparty is to divide, and sever the lands that fall to *Pecceners*, which before partition they hold jointly, and *pro indiviso*. *old nat. br. fol. 11.*

Pourpresture (*pourprestura, vel porprestura, vel piraprestura*) seemeth to come from the French (*pourpris. i. conseptum*) It is thus defined by *Glanvile, lib. 9. cap. 11.* *Pourprestura est proprie, quando aliquid super Dominium Regem injuste occupatur. Ut in Dominicis Regis, vel in vijs publicis obstructis, vel in aquis publicis transversis à recto cursu: vel quando aliquis in civitate super regiam plateam aliquid edificando occupaverit: Et generaliter, quoties aliquid fit ad nocu- mentum Regij tenementi, vel Regis vie, vel civitatis. Cromp. in his *Jurisd. fol. 152.* defineth it thus: Pourpresture is properly when a man taketh unto himselfe or incroacheth any thing that hee ought not, whether it be in any Jurisdiction, land, or fraunchise: and generally, when any thing is done to the Nusance of the Kings tenents. *Et idem, eodem, fol. 203.* saith to the same effect, but more*

more at large. See *Kitchin.* fol. 10. and *Mawood,* parte prim. of his forest lawes pag. 169. & parte 2. cap. 10. per totum. See *Sicne de verbis significatibus verbis. Parfaytance.* Where he maketh three sorts of this offence: one against the King, the second against the Lord of the fee: the third, against a neighbour by a neighbour lying neare unto him.

Pour leizir terres les femme que tiennent en Dower &c. is a writ whereby the King leizeth upon the land, which the wife of his Tenant that held in Capite, disseated, hath for her dowry, if she marry without his leave, and is grounded upon the statute of the Kings prerogative, cap. 3. see *Fitzb.* fol. 174.

Poursuyant, commeth of the French (*poursuivre* i. agere, agitare, persecuti) It signifieth the messenger of the King attending upon him in wars, or at the counsell table, the Starre chamber, Exchequer, or, commission court, to be sent upon any occasion, or message, as for the apprehension of a party accused, or suspected of any offence committed. Those that be used in marshall causes, bee called *Perseviantes* at armes, anno 24. Henr. 8. cap. 13. whereof there be foure in number of speciall names, which see in *Herald.* And *M. Stow* speaking of *Richard* the third

his end pag. 784 hath these words: For his body was naked to the skinne, not so much as one cloue about him, and was trussed behind a Parsuyvant at armes, like a hogge or a calfe, &c. The rest are used upon other messinges in time of peace, and especially in matters touching jurisdiction. See *Herald.*

Pourveuyant (*provvisor*) commeth of the French (*pourveire*. i. provident, propiciare.) It signifieth an officer of the King or Queen, or other great personage that provideth corne and other victuall, for the house of him whose officer he is. See *magna charta.* cap. 22. & 3. Ed. prim. cap. 7. & cap. 31. & anno 28. ejusdem. *Articuli super chartas.* 2. and many other statutes gathered by *Rastal* under this title.

Possidens, anno 1. Jacob. ca. 24.

Power of the countie. (*posse comitatus*) by *M. Lamberds* opinion in his *Eirenar.* li. 3. ca. 1. fol. 309. containeth the ayde and attendance of all Knights, gentlemen, yeomen, labourers, seruantes, apprentices, and villaines: and likewise of Wards, and of other young men above the age of fifteene yeares, within the countie, because all of that age are bound to have harness, by the statute of *Winchester.* But women, ecclesiastical persons

sions, and such as be decrepit, or doe labour of any continuall infirmitie, shall not be compelled to attend. For the statute 2. Hen. 5. cap. 8. (which also worketh upon the same ground) saith, that persons sufficient to travell, shall be assistant in this service.

Pounde (*parcus*) seemeth to signify generally any inclusure of strength to keep in beasts: but especially, with us, it signifieth a place of strength to restraine cattell being distrained or put in for any trespass done by them, untill they be replevied or redēmed. And in this signification it is called a pound *overt*, or open pound being builded upon the waste of some Lord within his fee, and is called the Lords pound. For hee provideth it to his use, and the use of his tenents. See *Kitchin*, fol. 144. It is divided into pound open, and pound close: pound open or *overt*, is not onely the Lords pownd, but a back-fide, court, yarde, pasture, or else whatsoeuer, whither the owner of any beasts impounded may come to give them meate and drinke without offence, for their being there, or his comming thither: pound close is then the contrary *viz.* such a one as the owner cannot come unto, to the purpose aforesaid without offence, as

some close house, or such like place.

Poundage, is a Subsidy granted to the King of all manner of merchandizes of every merchant denizen and alien, carried out of this Realme, or brought into the same by way of Merchandize, to the valew of twelve pence in every pound, an. 12. Ed. 6. cap. 13. an. 31. Elizab. cap. 5. anno 1. Jacobi, cap. 33.

Pray age. See *Age prier*.

Pray in ayd. See *Ayd*.

Prebend (*prebenda*) is the portion, which every member or Canon of a Cathedrall church receiveth in the right of his place, for his maintenance. And though we have wrought the Latine word into the nature of a Substantive: yet I thinke it originally to be an adjective, or participle, and to have beene joyned with (*par* or *portio*) as (*Canonica portio*) which is in manner all one in signification. How bee it (*Canonica portio*) is properly used for that share which every Canon or Prebendarie receiveth yearlye out of the common stock of the Church: and *prebenda* is a severall benefice rising from some temporall land, or church appropriated, toward the maintenance of a clerk, or member of a collegiat Church; and is commonly surnamed of the place, whence, the profit groweth. And *Prebends*

bends be either simple, or with dignitie. Simple Prebends be those, that have no more but the revenew toward their maintenance : Prebends with dignity are such, as have some jurisdiction annexed unto them, according to the divers orders in every severall Church. Of this see more in the title. *De Prebendis, & dignitat.* in the *Decretals.* *Alciat* saith, that (*Prebendis*) in the plurall number and neuter gender was anciently used : as now (*prebenda*) in the singular number, and feminine gender is used. *parerg. c. 43.*

Præbendary (*præbendarius*) is he that hath a prebend. See *Prebend.*

Præcept (*præceptum*) is diversly taken in the common law, sometime for a commandement in writing sent out by a Justice of peace, or other for the bringing of a person one or more, or records before him : of this you have examples of divers in the table of the *Reg. Judiciall* : And this use seemeth to be borrowed from the customes of *Lombardy*, where *præceptum* signifieth *scripturam, vel instrumentum. Hot. in verbis feudal.* & libro 3. *Commentarij*, in *libros feudorum, in præfatione.* Somtime it is taken for the provocation, whereby one man inciteth another to commit a felony, as theft, or murder. *Stawnf. pl. cor. fol. 105. Bracton*

calleth it (*præceptum*) or (*mandatum*) lib. 3. tract. 2. c. 19. whence a man may observe three diversities of offending in murder : *Præceptum, fortia, consilium: præceptum*, being the instigation used before hand, *fortia*, the assistance in the fact, as helpe to binde the party murdered, or robbed : *consilium*, advise either before, or in the deed. The Civilians use (*mandatum*) in this case, as appeareth by *Angelus in tracta de maleficijs. vers. Sempronium Mandatorem.*

Preceptories, an. 32. H. 8. cap. 24. were benefices in a kind, and termed preceptories, because they were possessed by the more eminent sort of the Templers, whom the chiefe master by his authority created, and called (*præceptores Templi*) *Joach. Steph. de Jurisdict. li. 4. c. 10. m. 27.* See *Comaundry.*

Præcipe quod reddat, is a writ of great diversity touching both the forme and use, for better declaration whereof see *Ingressus*, and *Entry*. This forme is extended as well to a writ of right, as to other writs of entry, or possession. *old nat. br. fol. 13. and Fitzber. nat. br. fol. 5.* And it is called somtime a writ of *Right close*, as a *præcipe in capite*, when it issueth out of the Court of common pleas for a tenant holding of the King in chiefe, as of

of his Crowne , and not of the King , as of any honour , castle , or maner. *Register orig.* fol. 4. b. *Fitz. nat. br.* fol. 5. F. Sometime a writ of Right patent : as when it issueth out of any Lords Court , for any of his tenants deforced against the deforcer , and must be determined there. Of this reade more at large in *Fitz. nat. br.* in the very first chapter or writ of all his booke.

Premunire , is taken either for a writ , or for the offence whereupon this writ is granted. The one may well enough be understood by the other. It is therefore to be noted , that the Church of *Rome* under pretence of her supremacy and the dignity of *Saint Peters chaire* , grew to such an incroaching that there could not be a benefice (were it Bishoprick , Abbathy , or other) of any worth here in England , the bestowing whereof could escape the Pope by one meanes or other. In so much , as for the most part hee granted out Mandates of Ecclesiasticall livings , before they were voide to certaine persons by his bulls , pretending therein a great care to see the Church prouided of a Successor before it needed. Whence it grew that these kinde of Bulls were called (*Gratia expectativa*) or (*Provisiones*) whereof you may reade a learned discourse in *Duarenus*

that worthy Civilian in his tractate , *De beneficiis lib. 3. ca. 1.* and in his treatise *De immunitate ecclesiae Gallicanae*. These provisions , were so rife with us , that at the last , King *Edw.* the Third , that heroicall Prince , not digesting so intollerable an oppression , made a statute in the 25. yeare of his raigne , *stat. 5. cap. 22.* and another *stat. 6. ejusdem anni. cap. pri.* and a third *anno 27.* against those that drew the Kings people out of the Realm , to answere of things belonging to the Kings Court ; and another *anno 28. statu. 2. c. 1. 2. 3. & 4.* to the like effect : whereby he greatly restrained this liberty of the Pope. Yet such was the wantonnesse that grew ont of his power , and the impatience of Princes in those dayes , that he still adventured the continuance of these provisions : in so much as King *Richard* the second made likewise a statute against them in the Twelfth yeare of his raigne , *ca. 15.* and the 13. yeare *stat. 2. ca. 2.* making mention of the said first statute of *Edward* the third , ratifying the same , and appointing the punishment of those , that offended against it to bee perpetuall banishment , forfeiture of their lands , tene- ments , goods , and cattells , as by the same doth more at large appeare. And againe in the 16.

yeare of his raigne, cap. 5. to meet more fully with all the shifts invented to defraud these former Statutes, hee expresseth the offence more particularly, and setteth the same punishment to it, that hee ordained in the last former statute. For there toward the end hee hath these words : if any purchase or puriew or do to be purchased, or periewed in the Court of Rome, or else-where any such translations, processes and sentences of excommunication, Bulls, Instruments, or any other things, &c. After him, K. Herr. the Fourth in like manner grieved at this importunie by other abuses not fully met within the former statutes in the second yeere of his reigne, cap. 3. and 4. addeth certaine new cases, and layeth upon the offendours in them the same censure, whereunto for shortnesse sake I referre you : admonishing likewise to adde the Statute, anno 9. ejusdem cap. pri. & anno 7. cap. 9. & 8. & anno 9. ejusdem, cap. 8. & anno 3. H.5. cap. 4. Out of which statutes have our professors of the commoyn lawe, wrought many dangers to the Jurisdiction Ecclesiasticall, threatening the punishment contained in the statute anno 27. Edw. 3. & 38. ejusdem, almost to every thing, that the court Christian dealeth in, pretending all things delt

within those Courts to bee the disherison of the Crowne, from the which , and none other fountaine, all Ecclesiasticall Jurisdiction is now derived : whereas in truth Sir Tho. Smith saith very rightly and charitably, that the uniting of the Supremacy Ecclesiasticall and temporall in the King utterly voideth the use of all those statutes. *Nam cessante ratione cessat lex.* And whatsoever is now wrought or threatned against the Jurisdiction Ecclesiasticall , by colour of the same , is but in emulation of one court to another : and by consequent a derogation to that authoritie from which all Jurisdiction is now derived , and the maintenance whereof was by those Princes especially purposed. But of this reade Sir Thomas Smith , li. 3. de Rep. Ang. cap.9.

Some later statutes doe cast this punishment upon other offenders ; as namely the statute, anno 1. Eliz. cap. prim. upon him that denieth the Kings supremacy the second time, &c. and the statute anno 13. Eliz. cap. 2. upon him that affirmeth the authoritie of the Pope : or that refuseth to take the oath of Supremacie. and the Statute an. 13. Eliz. cap. 1. such as bee, seditious talkers of the inheritance of the Crowne, or affirme the Queens Majestie

to bee an heretique. And the word is applyed most commonly to the punishment first ordeined by the statutes before mentioned, for such as transgressed them : but in latter times imposed upon other offences. For that, where it is said that any man for an offence committed shall incurre a *prémunire*, it is meant, that hee shall incurre the same punishment, which is inflicted against those that transgresse the statute made, anno 16. R. 2. c. 5. which is commonly called the statute of *prémunire*, which kinde of reference is not unusuall in our statutes. For example, I shew only the statute, anno 5. Elizab. c. 5. where it is enacted, that if any man preach or teach by writing, that the common counsell of the Realm doe by that statute forbid flesh to be eaten, as of necessitie for the saving of mans soule, that he shall for such preaching, &c. be punished as they bee, which be spreaders of false newes: having reference thereby to those statutes which containe the punishment of such offenders.

Now touching the Etymologie of this word (*Prémunire*) some thinke it proceedeth from the strength given to the Crown by the former statutes, against the usurpation of forraine and unnaturall power : which opin-

nion may receive some ground from the Statute, anno 25. Edward. 3. stat. 6. cap. pri. But other thinke it to grow from the verbe (*Prémunere*) being barbarously turned into (*prémunire*) which corruption is taken from the rude Interpreters of the Civile, and Cannon lawes, who indeed doe use the effect (*Prémunire*) many times for the efficient cause (*Prémunere*) according to the proverbe : *Hee that is well warned, is halfe armed.* And of this I gather reason from the forme of the Writ, which is thus conceived in the old nat. br. fol. 143. *Prémunire facias prefatum prepositum & I. R. procuratorem, &c. quod tunc fuit coram nobis, &c.* for these words can bee referred to none, but parties charged with the offence.

Prepositus ville, is used somtime for the Constable of a town, or petit Constable. *Crom. Jurisd.* fol. 205. howbeit the same author. fol. 194. seemeth to apply it otherwise, for there *quatuor homines prepositi*, bee those 4. men, that for every towne must appeare before the Justices of the Forest in their circuit. It is used somtime for a Reeve. See *Reeve*.

Prerogative of the King (*prerogativa regis*) is that especiall power,

power, preeminence, or priviledge that the King hath in any kinde over and above other persons, and above the ordinarie course of the common law, in the right of his crown. And this word *Prærogativa* is used by the Civilians in the same sence. *l. Rescriptum. 6. Sect. 4. π de hono. & muner.* But that priviledge that the Romane Emperour had above common persons, they for the most part comprised *sub jure regisci. π de jurefisci, per totum tit.* & *Co. li. 10. tit. 1.* Among the Feudists this is termed (*ius regalium, jus regaliorum, vel à nonnullis ius regeliarum*) But as the Feudists, *sub jure regalium*, so our Lawyers (*sub prærogativa regis*) doe comprise also, all that absolute heighth of power that the Civilians call (*majestatem, vel potestatem, vel ius imperij*) subject only to God: which *regalia* the Feudists divide into two sorts, *majora sc. & minora regalia*. for to use their owne words, *Quædam regalia, dignitatem, prærogativam, & imperij præminentiam spectant: quædam verò ad utilitatem, & commodum pecuniarium immediate attinent: & hac propriè fiscalia sunt, & ad ius fisci pertinent.* *Peregrī: de jure fisci, li. 1. c. 1. nn. 9.* See also *Arnoldus Clapmarius. de arcanis imperij. lib. 1. cap. 11. & seqq.* who seemeth to make difference be-

tween *majestatem, & ius regaliorum*. Others make those (*majora regalia*) that appertaine to the dignity of the Prince, and those *minora*, which enrich his cofers. *Regnerus Sixtinus, de jure rega. cap. 2.* By this it appeareth, that the statute of the Kings prerogative made, anno 17. Ed. 2. conteins not the summe of the Kings whole prerogative, but onely so much thereof, as concernes the profit of his cofers growing by vertue of his regall power and crowne; for it is more then manifest, that his prerogative reacheth much farther: yea, even in the matters of his profit, which that statute especially consisteth of. For example, it is the Kings prerogative to grant protection unto his debtours against other creditours, untill himselfe be satisfied. *Fitz. nat. br. fol. 28. B.* to distreine for the whole rent upon one tenent, that hath not the whole land. *Idem fol. 235. A.* to require the ancestors debt of the heire, though not especially bound. *Brit. ca. 28. fol. 65. b.* to seise upon money paid by his debtour into a Court, for the satisfaction of an executor. *Plowden, fol. 322. a.* to permit his debtours to siew for their debts by a (*Quo minus*) in the Exchequer. *Perkins Graunts.* *b.* to be first paid by one that oweth money both to him

him and others, *Dyer.* fol. 67. n.s.
20. to take the lands of accountants into his hands for his owne satisfaction. *Plowd.* *casu.* *Almes.* fol. 321. & 322. to take his action of account against executors, *co-dem* fol. 320. not to be tyed to the demand of his rent. *Coke.* li. 4. fol. 73. a. Now for those regalities which are of the higher nature (all being within the compasse of his prerogative, and justly to be comprised under that title) there is not one that belonged to the most absolute prince in the world, whitch doth not also belong to our King, except the custome of the nations so differ (as indeed they do) that one thing be in the one accounted a regality, that in another is none. Only by the custome of this kingdome, he maketh no lawes without the consent of the 3. Estates, though he may quash any law concluded by them. And whether his power of making lawes be restrained (*de necessitate*) or of a godly and commendable policy, not to be altered without great perill, I leave to the judgement of wiser men. But I hold it incontroulable, that the King of England is an absolute King. And all learned politicians doe range the power of making lawes, *inter insignia summae & absolutae potestatis.* *Majora au-tens regalia sunt hæc : clausula plenitudinis potestatis,* & ex ea

aliquid statuere, leges condere, ac eas omnibus & singulis dare, bellum indicere, bellii indicendi licentiam alii dare, pronunciare ita ut a sententia appellari non possit, committere sive delegare alicui causam cum clausula appellatione remota, cognoscere de criminis lese majestatis, legitimare per rescriptum eos qui extra legitimum matrimonium natu sunt, ad famam bonores, & natales in integrum restituere, veniam etatis dare, creare Duces, Marchiones, Comites, regnum in feudum concedere. Huc referri potest jus erigendi scholam, quæ hodie Universitas vel Academia appellatur, etiam jus creandi doctores, gradu licentiae aliquem insigniendi, creandi magistratus, tabelliones, sive notarios, ius dandi insignia nobilitatis, sive nobiles creandi, ius cuendae monetæ, nova vectigalia instituendi, vel instituta vectigalia augendi; Sixtinus ubi supra. So that these other which are mentioned in libri fendorum, and the interpreters of them are (at the least for the most part) justly called regalia minora, as armandie, via publicæ, flumina navigantia, portus, ripalia, vectigalia, monetæ, mulctarum panarumq; compendia, bona vacantia, bona quæ indignis auferuntur, bona eorum qui incestum matrimonium contrabunt, bona damnatorum, & postscriptorum, angariae & parangariae, extraordinarie ad

ad expeditionem imperatores collationes, potestas creandorum migrationum ad justiciam exequendam, argentariae, palatia, in civitatibus constituta, piscationum redditus, salinarum redditus, bona committentium crimen lese majestatis, thesauris inventus. By setting downe these regalities of both sorts, as they are accounted in the Empire, and other forrein Kingdomes, they may bee the more easily compared with our kings prerogatives, and so the differences noted between us and them. And whereas some things are before reckoned both (*inter regalia majora, et minora*) the Reader must understand that this may bee in divers respects. For example, the power of raising a tribute, or of coyning money, is *inter majora*: but the profit that groweth to the Prince by the one or other, is (*inter minora*) Now may there also be noted out of books a great number of prerogatives belonging to the King of this land, which doe not bring profit to his coffers immediately, and therefore may be accounted *inter regalia majora*, or at the least, in a middle or mixt nature, or *inter majora et minora*, because by a consequent they tend to the increase of the Kings Exchequer. Of these such as I have observed in reading, I will set downe as they come to my

hands, without farther curiositie in dividing. It is the Kings prerogative that hee may not bee siewed upon an ordinary Writ as tenant to lands, but by petition. *Plowd. casu Walsingham*, f. 553. to have a necessary content in the appropriation of all benefices. *Idem, casu Grendon*. fol. 499. to waive and to demurre, and to plead to the issue, or to waive the issue, and to demurre upon the plee of the advers. parts, yet not to change the issue another terme after he and the advers part bee once at issue. *Idem, casu Willion*. fol. 23. 6. a. & *casu Mines* fol. 322. a. to bee received in a suit before issue joyned upon an (*ayde prier*) *Idem, casu Dutchy of Lancaster*, fol. 221. b. to bee never in nonage, *eodem*, f. 218. b. that a man indicted may not wage battell with him. *Idem casu nimes* fol. 335. b. that no man upon any right may enter upon him being in possession, but must be put to quite. *Dyer* f. 139. n. 33. to seile the lands of his tenents that alienate without license, *Plowd. casu. Mines*. fol. 322. a. that no subject may wage his law against him. *Broke*. chose in action, 9. *Coke, lib. 4.* fol. 93. to present in the right of the youngest coparcener being his warde before the elder. *Plowd. casu. Mines*. fol. 322. b. & fol. 333. a. that a benefice by institution is not

not full against him. *Coke Digest* c. f. 79. a. not to finde pledges for the persecuting of any action. For he cannot be amerced. *Fitzb. nat.* br. fol. 31. F. & f. 47 C. To siew in what Court he will. *Fitz. na. b.* fol. 7. B. & 32. E. to siew the writ No admittas after six moneths. reg. orig. f. 31. a. that a mans villein having remained in his ancient demeain by the space of a yeere, may not bee recovered by the writ, (*de nativo babendo*) *Fitzb. nat.* br. fol. 79. A. to grant an office with the (*babendum post mortem alterius*) *Dyer. fol. 295. nn.* 1.

to shorten the ordinary time of summonses (being 15. dayes) in writ of right, *Brit. ca. 121.* to give what honour or place he liesteth to his subjects. anno 31. H. 8. ca. 10. to be owner of a forrest. See *Farrest.* to have free warren. See *Warren.* Not to be owted of his free hold. *Cromptons Justis of peace.* fol. 59. b. & 16. a to arraigne a man being both a Traitor and a Felon, rather upon the treason, then upon the felonie, because he may have the whole escheates. *idem codem fol. 99.* a. to warrant the day of appearance to his subject beeing in his service, and summoned to appeare at a day certaine. *Fitzb. nat.* br. fol. 17. a. Divers of these, and many others did belong (*fisco imperatorum*) which you may finde in the *Digest* : *de jure fisci.*

& Co. lib. 10. sic 1. Besides these also many moe may be observed to belong unto our King out of lawes, which I leave to their collection which are of longer reading, and more painfull industry.

Prerogative of the Archbishop of Canterbury, or Yorke (prerogativa Archiepiscopi Cantuariensis, seu Eboracensis) is an especiall preeminence that these Sees have in certaine cases above ordinary Bishops within their Provinces. And that of the Archbishop of Canterbury, principally consisteth of these points.

First, in the confirmation of all elections made of Bishops by the Deane and Chapter of all Cathedrall Churches, as also the consecration of them.

Next in a power of visiting his whole Province, of assembling Synods, of supplying the defects and negligences of inferiour Bishops, of receiving appeals from their Courtes, of assigning coadiutors to those Bishops that grow weake and insufficient to discharge their function, of appointing Vicars generall to those that have either none, or an insufficient man employed in that Office: and of dispensing in all Ecclesiasticall cases, wherein the lawes beare dispensation: of taking oath of every Bishop, at his confirmation, to performe

canonicall obedience unto the See of Canterbury. But these seeme to belong unto him by an ordinary Archiepiscopall authority.

Certain other things there be, that appertein unto him more then ordinarily to other Archbishops: as the originall calling of any perlon, in any cause belonging to spirituall jurisdiction, out of any part of his province, though not appealed. But this point is now limited by the Statute made,
anno 23. H.8. cap. 9.

The receiving of an appeale from the lowest Judge Ecclesiastical within his province immediatly. The appointing of a keeper or guardian of the spiritualties during the vacancie of any Bishoprick. By which meanes all Episcopall rites of the Diocese, for that time doe belong unto him: as Visitation, Institution to Benefices, and such like.

The Visitation of every Diocese within his province, when and in what order it pleaseth him. As also of all other privileged Churches. The probat of Testaments and granting of Administrations, in case where the party deceased hath goods of any considerable value out of the Diocese wherein he dyeth. And that value is ordinarily five pounds, except it be otherwise by composition betweene the said Archbishop, and some other Bishop:

as in the Diocese of London it is ten pounds.

The probat of every Bishops Testament, or the Administration of his goods, dying intestate, though not having any goods, chatels, or debts without the compasse of his owne jurisdiction. The bestowing of any one dignity or Prebend in any Cathedrall Church upon the creation of a new Bishop, that himselfe thinketh good to make choice of.

There may be more particulars of this prerogative, that I know not: but these may be sufficient to expresse the thing that I desire to declare. Who so desireth to reade these more at large, and other priviledges of this Church in temporal matters, may resort to the booke intituled: *De antiquitate Britannica Ecclesiae, & nominatim de privilegiis Ecclesiae Cantuariensis historia*, and especially to the eighth chapter of the said book pa. 25.

Prerogative Court (curia prerogativa Archiepiscopi Cantuariensis) is the Court wherein all Wills be proved, and all Administrations taken, that belong to the Arch-bishop by his prerogative, which see in *Prerogative*. And if any contention doe grow between two or more touching any such Will or Administration, the cause is properly debated and deter-

determined in this Court. The Judge of this court is called *Judex Curie prerogative Cantuariensis*. The Arch-bishop of Yorke hath also the like power and court, which is termed his Exchequer, but farre inferior to this in countenance and proffit.

Prescription (*prescriptio*) is a course or use of any thing for a time beyond the memory of man, as the exposition of the law termes doth define it. *Kitchin* fol. 104. saith thus: Prescription is, when for continuall of time, whereof there groweth no memory, a particular person hath particular right against another particular person. And custome is, whereby continuall of time beyond memory, divers persons have gotten a right: with whom agreeth Sir Edward Cooke, lib. 4. fol. 32. v. And usage is by continuall of time the efficient cause of them both, and the life of both prescription and custome. Thus saith *Kitchin*. But as in the Civill law, so I thinke likewise in the common, Prescription may be in a shorter time. As for example, where the Statute anno 1. H. 8. da. 9. saith, that all actions popular must be siewed within three yeeres after the offence committed, and the Statute anno 7. e*judicem.* ca. 3. That four yeeres being past af-

ter the offence committed in one case, and one yeere in another, no suite can be commenced, and the Statute 31 Elizab. c. 5. saith, (by way of correcting the two former statutes) that all actions, &c. brought upon any Statute, the penalty whereof belongeth to the King, shall bee brought within two yeeres after the offence committed; or else be voyd. And the statute anno 29. Eliz. cap. prim. & secund. saith that actions brought after two yeare by any common person, or after three yeeres by the King alone for decay of husbandry or tillage, shall be of no force. Whosoever offendeth against any such statute, and doth escape uncalled for two yeeres, or three yeeres, in one case of the two latter of these three statutes, may justly bee said to have prescribed an immunity against that action. The like may be said of the statute made anno 29. Elizab. cap. prim, which saith, that all offences comprised in that statute made in the 13. yeere of Elizab. cap. 2. are inquirable before both Justices of peace and of Assise, within one yeere and a day, after the offence committed. Also the title that a man obtaineth by the passing of five yeeres after a fine acknowledged of any lands or tenements, may

justly be said to be obtained by prescription. And whereas the Statute anno 8. R. 2. ca. 4. saith, that a judge or Clerke convicted for false enting of plees, &c. may be fined within two yeeres; the two yeeres being ended, he prescribeth against the punishment of the saide Statute; and whereas the Statute anno 11. H. 7. saith, that he which will complaine of mainetenance, or embracery, whereby perjury is committed by a Jury, must doe it within sixe dayes, those sixe dayes ended, the partie prescribe: and whereas the Statute anno pri. Ed. 6. saith, that a man being not indicted within 3 moneths of any offence there mentioned touching Service and Sacraments, hee shall be cleare from thence forward: the three moneths being ended, he prescribeth: and the same may bee said of the Statute anno 5. Ed. 6. cap. 5. which saith that a man shall not bee indited of any offence there mentioned touching the decay of tillage, after 3 yeeres. And whereas it is ordain'd by the Statute anno 8. H. 6. ca. 9. that those which keepe possession of lands by force after 3 yeeres possession held by themselves and their ancestors, shall not be subject to the arbitrement of Disseisours there set

downe, I hold this a prescription likewise against those tenures. v. anno. 23. H. 6. ca. 15. Lastly a servant prescribeth liberty after 2 yeere. Bracton lib. 1. ca. 10. no. 3. and the right that is gotten in any Stray to a Lord of a manner, no man clayming it within the yeere and day after proclamation made, is an usucaption, or prescription. See *Action perpetuall, and temporall.* And see *Cromwells Justice of peace* fo. 173. b. ubi habebitis festum. But see one rule for all in *Lam. Eirenach.* lib. 4. ca. 5. pag. 469. Of this prescription and the learning touching the same, you may read a solemn report in *S. Edwards Cooke, &c. Luttrells case* vol. 4. j. 84. b. &c. seq.

Presentation (*Presentatio*) is used properly for the act of a patron offering his Clerke to the Bishop, to be instituted in a benefice of his gift: the forme whereof see in the *Register original.* fol. 322. a.

Präsentment, is a meere denuntiation of the Jurours themselves, or some other officer, as Justice, Constable, searcher, surveilours &c. (without any information) of an offence inquireable in the Court whereunto it is presented. See *Lambard Eirenachs.* lib. 4. ca. 5. pag. 467.

President (*Præses*) is used in the common law for the kings Lieu-

Lieutenant in any Province or Function, as President of Wales, of Yorke, of Barwicke, President of the Kings Councell : Anno 22 Hen. 8. cap. 8. & anno 24 Hen. 8. cap. 3. & 14.

Prietary (*Protonotarism*) is a word that seemeth to bee made either of two French words, *prim* or *primier*, i. *primus*, and *Notaire*, i. *Notarius*, *tabelio* : Or of two Latine words, *praetorarius*, *quaest primus aut principalis notarius*. The office is likewise borrowed from the later Romanes, who made his name of halfe Greek and halfe Latine, *viz.* *πρωτο-* *i. primus, principalis, and Notarius*. It is used in our Common Law, for the chiefe Clerks of the kings Courts, whereof three bee of the Common pleas, and one of the Kings Bench. For the Pregnotary of the Common pleas, anno 5 H. 4. ca. 14, is tearmed the chiefe Clerke of that Court. Hee of the Kings Bench recordeth all actions Civile siewed in that Court, as the Clerke of the Crowne office doth all criminall Causes. Those of the Common pleas doe enter and inrolle all manner of Declarations, pleadings, assises, and judgements : and all actions the same terme that the appearance is made. Also they make out all judicall writs, as the *Venire facias* after issnes, joy-

ned, and *Habeas corpus* for the bringing in of the Jury, after it is returned upon the *Venire facias*. They also make forth writs of executions and of seisin, writs of *Supersedeas*, for appearance to Exigents, as well as the Exigents and writs of priviledges, for remooving of Causes from other inferiour Courts of Record, in case where the party hath cause of priviledge. Also writs of *Precedendo*, of *Scire facias* in all cases, and writs to enquire of dammages : and all processe upon prohibitions, and upon writs of *Audita querela* and false judgement. Finally, they inrolle all Recognisances acknowledged in that Court, and all common Recoveries, and may make exemplifications of any record the same term, before the roles be delivered from them.

Prender commeth of the French *prendre*, i. *aceipere, acceptare, capere,prehendere*. It signifieth in our Common law, sometime a power or right to take a thing, before it be offered ; as such things as lie in Prender, or such as lie in render : *W^t 2, tunc Fines, Sect. 126* : where you have these words : If the Lord grant the services of his Tenement by fine or otherwise, the Lord before atturment shall have such things as lie in prender : as the ward of the body of the heire and

and of the land : escheats , &c. but not such things as lie in prender^t, as rents and reliefs, heriots and other services. For he cannot avow for them before the attournement.

Prender de Baron signifieth literally in barbarous French to take a husband : But it is used in our common law, as an exception to disable a woman from perswewing an appeale of murder against the killer of her former husband, *Stawnf. pl. cor. li. 3. c. 59.* The reason whereof whether it be, because by her second mariage, she may justly be thought to have given up the interest she had in her former husband , or for that she is now covert again, or for both, I leave to consideration.

Prender del profits, signifieth verbatim to take the profits. It signifieth substantively the taking of the profits. See *Cromptons Jurisdict. fol. 185.* See *Pernour of profits.*

Prest, is used for some duty in money to be paid by the Sheriffe upon his account in the Exchequer, *anno secundo & tertio Ed. 3. cap. 4.*

Prest money is so called of the French word (*Prest.i. explicatus, promptus, expeditus*) for that it bindeth those, that have received it, to be ready at all times appointed.

Prisme, is a dutie due to the Mariners and Saylers for the loading of any shippe at the setting forth from any Haven, *anno tricessimo secundo Henrici octavi, capitulo decimo quarto.*

Primier seisin (*Prima seisina*) *ad verbum*, signifieth the first possession. It is used in the common law, for a branch of the Kings Prerogative , whereby hee hath the first possession of all lands and tenements through the Realme holding of him in chiefe, whereof his tenent dyed seised in his demesne as of fee ; and so consequently the rents, and profits of them, until the heire, if he be of age , doe his homage , if hee be under yeeres, until hee come to yeeres. See *Stawnf. prarog. capite tertio, & Braston libro quarto, tract. 3. cap. pri.*

Primo Beneficio. See *Beneficio.*

Prince (*Principes*) is a French word, and taken with us diversly, sometime for the King himselfe, but more properly for the Kings eldest-sonne , who is Prince of Wales , as the eldest sonne to the French-king is called *Dolphine*, both being Princes by their nativity. Master Fearn in the glory of generosity, page 138. For Edward the first, to appease the tumultuous spirits of the Welch-men , who being the ancient Indige-

ne of this land, could not in long time beare the yoake of us, whom they call strangers, sent his wife being with child into *Wales*. Where at *Carnarvan* she was delivered of a Sonne, thereupon called *Edward of Carnarvan*, and afterward asked the Welch-men, seeing they thought much to bee governed by strangers, if they would be quietly ruled by one of their owne nation; who answering him, Yea: Then quoth he, I will appoint you one of your owne countrey-men, that cannot speake one word of English, and against whose life you can take no just exception: and so named unto them his Sonne borne in *Carnarvan* not long before. From which time it hath continued, that the Kings eldest sonne (who was before called Lord Prince, *Statuif. prærog. cap. 22, fol. 75.*) hath beene called Prince of *Wales*. *Stowes Annals pag. 303.* See anno vicesimo septimo Henrici octavi *cap. 26.* & anno 28. *ejusdem. cap. 3.*

Principality of Chester. anno 21. Rich. a. cap. 9. See *County-palatine*, and *Cromptons divers jurisdic-*
tions, fol. 137.

Prior perpetual, or datife & re-
moveable, anno 9. R. 2. cap. 4. and
anno 1. Ed. 4. cap. 1. paulo ante fi-
nem. Lord prior of Saint Johns of
Jerusalem, anno 26. H. 8. cap. 2.

Priors, aliens (Prioris alieni)

were certain religious men, born in France, and governours of religious houses, erected for out-landish men, here in *England*: which were by *Henry the fifth* thought no good members for this land, after such conquest obtained by him in *France*, and therfore suppressed. Whose livings afterwards by *Henry the sixth*, were given to other Monasteries, and houses of learning. *Stowes Annals, pag. 582.* See anno 1. *H. 5. cap. 7.* but especially to the erecting of those two most famous colledges, called the Kings Colledges of *Cambridg* and *Eaton.*

Prioritie (prioritas) signifi-
eth in our common-law, an antiquity of tenure in comparison of another not so ancient. As to hold by prioritie, is to hold of a Lord more anciently then of another *old nat. br. fol. 94.* So to hold in posterioritie, is used by *Statuif. prærog. cap. 2. fol. 11.* And *Crompton* in his jurisdiction *fol. 117.* useth this word in the same signification. The Lord of the prioritie shall have the custody of the body, &c. *fol. 120.* If the tenant hold by prioritie of one, and by posterioritie of another, &c. To which effect see also *Fitzb. nat. br. fol. 142.* *Bartolus* in his *Tractate, de insig-*
nitiis & armis, useth these very words, *prioritas, & posterioritas,*
concer-

concerning two that beare one
coate armour.

Prisage, seemeth to bee that
custome or share, that belon-
geth to the King out of such
merchandise, as are taken at sea,
by way of lawfull prize, anno 31.
Eliz. cap. 5.

Prisage of Wines, anno 1. *H. 8. cap. 5.* is a word almost out of
use, now called *Butlerage*, it is a
custome whereby the Prince chal-
lenged out of every barke loa-
den with wine, containing lesse
then fortie tunne, two tunne of
wine at his price.

Prise (*prisa*) commeth of the
French (*prendre. i. capere*) it signifieth in our Statutes, the things
taken by purveyours, of the
Kings subjects. As anno 3. *Edw. 1. cap. 7.* & anno 28. *eiusdem stat. 3. cap. 2.* It signifieth also a cu-
stome due to the King, anno 25.
eiusdem cap. 5. Regist. origin. fol. 117. b.

Prisoner (*priso*) commeth of
the French *prisonnier*, and signifieth a man restrained of his li-
bertie upon any action civil or
criminall, or uppon commandement.
And a man may be prisoner
upon matter of Record, or
matter of fact: prisoner upon
matter of record is he, which be-
ing present in Court, is by the
Court committed to prison, onely
upon an arrest, be it of the
Shyreeve, Constable, or other.

Stawns. pl. cor. lib. prim. cap. 32. fol. 34. & 35.

Privie, commeth of the French
(*privé. i. familiaris*) and signifieth in our common Law, him
that is partaker, or hath an inter-
est in any action, or thing: as,
privies of bloud, *Old nat. br. fol. 117.* be those that be linked in
consanguinitie. Every heire in
tayle is privie to recover the land
intayled. *edem. fol. 137.* No
privitie was betweene mee and
the tenant, *Lisketon fol. 106.* If
I deliver goods to a man to bee
carried to such a place, and he af-
ter he hath brought them thither,
doth steale them, it is felonie:
because the privitie of deli-
verie is determined, as soone as
they are brought thither. *Stawn. pl. co. lib. prim. cap. 15. fol. 25.*
Merchants privie be opposite to
Merchant strangers, anno 2. *Edw. tertii. cap. 9. & cap. 14. & anno*
eiusdem. stat. 2. cap. 3. The new
Expositour of Law termes maketh
divers sorts of privies: as
privies in estate, privies indeed,
privies in law, privies in right,
and privies in bloud. And see
the examples he giveth of every
of them. See *Perkins Conditions.*
831, 832, 833. and *Sir Edward Cooke. lib. 3. Walkers case. fol. 23. a. & lib. 4. fol. 123. b. & 124. 2.*
where hee maketh foure kindes
of privies, viz. privies in bloud,
as the heire to his father, &c.
pri-

privies in representation, as executors or administratours to the deceased : privies in estate, as he in the reversion, and he in the remainder, when land is given to one for life, and to another in fee: the reason is given by the Expositor of Law termes, for that their estates are created both at onetime. The fourth sort of privies are privies in tenure: as the Lord by escheate: that is, when the land escheateth to the Lord for want of heires, &c.

Privie seale (privatum sigillum) is a seal that the King useth sometime for a warrant, whereby things passed the privie signet & brought to it, are sent farther to be confirmed by the great seale of England: sometime for the strength or credit of other things written upon occasions more transitorie and of lesse continuance, then those be that passe the great seale.

Privilege (privilegium) is defined by Cicero in his Oration pro domo sua, to be *lex privata boni*ni irrogata*. Frerotus in parvulis ad titulum decretalium de privilegiis thus defineth it: *privilegium est jus singulare, hoc est, privata lex quae unius boni*ni, vel loco, vel Collegio, & similibus aliis conceditur: cap. privilegii, distinct. 3. priva enim veteres dixerunt quae nos singula dicimus. In isti Agellius, li. 10. ca. 20. Ideoque privilegia, modò bene-***

ficia, modò personales constitutiones dicuntur, &c. It is used so likewise in our common Law, and sometimes for the place, that hath any speciall immunitie. Kitchin fol. 118. in the words. where debtors make fained gifts and feofments of their land, & goods to their friends, and others, and betake themselves to priviledges, &c. Priviledge is either personal, or reall: a personall priviledge is that, which is granted to any person, either against, or beside the course of the common law: as for example, a person called to be one of the Parliament, may not be arrested, either himselfe, or any of his attendance, during the time of the Parliament. A priviledge reall is that, which is granted to a place, as to the Universities, that none of either may be called to Westm. hall, upon any contract made within their owne precincts. And one toward the Court of Chauncery cannot originally be called to any Court but to the Chancery, certaine causes excepted. If he be, he will remove it by writ of Priviledge grounded upon the statute anno 18. Ed. 3. See the new booke of Entries, verbo Privilege.

Probat of Testaments (probatio testamentorum) is the producting, and insinuating of dead mens wills before the ecclesiastical Judge, Ordinary of the place,

where the partie dyeth. And the Ordinary in this case is knowne by the quantitie of the goods, that the partie deceased hath out of the Dioces, where he departed. For if all his goods be in the same Dioces, then the Bishop of the Dioces, or the Arch-deacon (according as their composition, or pre cripition is) hath the probate of the Testament: if the goods be dispersed in divers Dioces, so that there be any summe of note (as five pounds ordinarily) out of the Dioces where the party let his life: then is the Archbishop of *Canterbury* the ordinary in this case by his prerogative. For whereas in old time, the will was to be proved in every Dioces, wherein the partie deceased had any goods: it was thought convenient both to the subject, and to the Archiepiscopal See, to make one proove for all before him, who was and is of all the generall ordinary of his Province. But there may be anciently some composition betweene the Arch-bishop and an inferiour ordinary, whereby the summe that maketh the prerogative, is above 5. pound. See *prerogative of the Arch-bishop*. This probate is made in two sorts, either in common forme or *per testes*. The proove in common forme, is onely by the oath of the executor, or partie exhibi-

ting the will, who sweareth upon his credulity, that the will by him exhibited, is the last will and testament of the partie diseased. The proove *per testes* is, when over and beside his oath, he also produceth witnesses, or maketh other proove, to confirme the same, and that in the presence of such as may pretend any interest in the goods of the diseased, or at the least in their absence, after they have beene lawfully summoned to see such a will proved, if they thinke good. And the later course is taken most commonly, where there is feare of strife, and contention betweene the kindred or friends of the partie deceased about his goods. For a will proved onely in common forme, may be called into question any time within thirtie yeares after by common opinion, before it worke prescription.

Procedendo, is a writ whereby a plee, or cause formerly called from a base Court to the Chancery, Kings bench, or common plees, by a writ of privilege or certiorare, is released, and sent downe againe to the same Court, to be proceeded in there, after it appeareth that the defendant hath no case of privilege, or that the matter comprised in the Bill, be not well proved, *Brooke hoc timbo*, and *Termes of*

of law: *Cook* vol. 6. fol. 63. a. See *anno 21. R. 2. ca. 11. in fine*, letters of procedendo granted by the keeper of the privie seale. See in what diversitie it is used in the table of the originall Register, and also of the Judiciall.

Proces (*processus*) is the manner of proceeding in every cause, be it personall, or reall, civil, or criminall, even from the originall writ to the end. *Britton.* fol. 138. a. wherein there is great diversitie, as you may see in the table of *Fitzb. nat. br. verbo Proces*, and *Brookes Abridgement*, *hoc titulo*. And whereas the writings of our common Lawyers sometime call that the Proces, by which a man is called into the Court, and no more: the reason thereof may be given, because it is the beginning, or the principall part thereof, by which the rest of the businesse is directed, according to that saying of *Aristotle*, *νέω το μέτρον*.

Divers kindes of Proces upon Inditements before Justices of peace: See in *Cromptons Justice of peace*, fol. 133. b. 134, 135. But for orders sake, I referre you rather to *M. Lambard* in his tractat of Processes adjoyned to his *Eirenarcha*, who according to his subject in hand, divideth criminall Proces, either into Proces touching causes of treason, or felonie, and Proces touching in-

feior offences: the former is usually *a capiass*, *capias alias*, & *exigifacias*. The second is either upon indictment, or presentment, or information: that upon indictment or presentment, is all one, and is either generall, & that is *avenire facias*, upon which if the partie be returned sufficient, then is sent out a *Distringas infinite* untill he come: if he be returned with a *Nil habet*, then issueth out a *Capias*, *Capias alias*, *Capias pluries*, and lastly, an *Exigi facias*. The speciaall proces is that, which is especially appointed for the offence by statute. For the which he referrereth his reader to the eight chapter of his booke, being very different.

Processum con iurando, is a writ for the continuance of a Proces after the death of the chiefe Justice, in the writ of *oyer and terminer*. *Register original.* fol. 128. a.

Prochein Amy (*proximus amicus*, *vel propinquus*) is word for word, a neere friend. It is used in our common Law, for him that is next of kinne to a childe in his nonage, and is in that respect allowed by law, to deale for him in the managing of his affaires: as to be his *Gardian*, if he hold of any in socage, and in the redresse of any wrong done unto him, be it by his *Gardian*, if he beward, and hold in *Chivalrie*,

rie, or any others. *Stat. West. pri. cap. 48. 3. Ed. p. i.* and *Westm. 2. cap. 15. anno 13. Ed. pri.*

Profe, alias *Prove*, is used for an Enquest, anno 28. Ed. 3. cap. 13.

Proclamation (*Proclamatio*) signifieth a notice publickly given of any thing, whereof the King thinketh good to advertise his subjects. So it is used anno 7. Ric. 2. ca. 6. Proclamation of rebellion is a publicke notice given by the officer, that a man not appearing upon a *Subpana*, nor an attachment in the Starre Chamber or Chancery, shall be reputed a rebell, except hee render himselfe by a day assignd, *Cromptons Jurisd.* fol. 92. See *Commission of rebellion*.

Proclamation of a fine, is a notice openly and solemnly given at all the Assizes, that shall bee holden in the Countie within one yeare after the ingrossing of the fine, and not at the fourre generall quarter sessions. And these Proclamations bee made upon transcripts of the fine, sent by the Justices of the common-pleas, to the Justices of Assise, and the Justices of peace. *West. parte 2. symbo. titulo Fines. sect. 132.* where also you may see the forme of the Proclamation. *Proclamare est psalm. & valde clamare*, used by *Tullie, Livie, and the Civilian.* n. *Quibus ad liberta pre-*

clamare non licet. And *Proclamator* signifieth him qui item intendit, vel causam agit. *Cicero de oratore. lib. pri.* Non enim causidicum rescio quem, neque proclamatorem, aut rebulum hoc sermone conquerimus, &c. I reade in *Fitzb. nat. br. fol. 85.* C. that the Kings proclamation is sufficient to stay a subject from going out of the Realme. See the force of proclamations *an. 31. H. 8. ca. 8.* see also proclamations in divers cases. New booke of *Entries.* verbo *Proclamation.*

Procters of the Clergie (*procuctores cleri*) are those which are chosen and appointed to appeare for Cathedrall, or other Collegiate Churches, as also for the common Clergie of every Dioces, at the Parliament, whose choice is in this sort. First, the King directeth his writ to the Arch-bishop of each Province for the suinmoning of all Bishops, Deanes, Arch-deacons, cathedrall and collegiat churches, and generally of all the clergie of his Province, after their best discretion and judgement, assigning them the time and place in the said writ. Then the Arch-bishops proceede in their accustomed course. One example may serve to shew both. The Arch-bishop of *Canterbury* upon his writ received, directeth his letters to the Bishop of *London* as his

his Dean provinciall. 1. sect. statuimus de paenis & verb. tanguam in glas. first citing himselfe peremptorily: and then willing him to cite in like manner all the Bishops, Deanes, Arch-deacons, cathedrall and collegiate churches, and generally all the Clergie of his Province to the place, and against the day prefixed in the writ. But directeth withall that one Proctor sent for every Cathedrall or Collegiate Church, and two for the bodie of the inferiour Clergie of each Diocesse, may suffice. And by vertue of these Letters authentically sealed, the said Bishop of London directeth his like Letters severally to the Bishop of every Diocesse of the Province, citing them in like sort, and commaunding them not onely to appeare, but also to admonish the said Deanes, and Archdeacons personally to appeare, and the Cathedrall and collegiat Churches, as also the common Clergie of the Diocesse to send their Proctors to the place, and at the day appointed: and also willeth them to certifie the Arch-bishop the names of all and every so admonished by them, in a shedule annexed to their Letters certificatorie. The Bishops proceed accordingly, and the Cathedrall and collegiat Churches, as al-

so the Clergie make choice of their Proctors: which done, and certified to the Bishop, hee returneth all answerably to his charge at the day. These Proctors of the Clergie, howsoever the case of late dayes is altered, had place & suffrage in the lower house of Parliament, as well as the Knights, Citizens, Barons of the Cinque ports, and Burghesses. For so it plainly appeareth by the statute anno 21. R. 2. cap. 2. & cap. 12. And sithence they were remooved, the Church hath daily growne weaker and weaker: I pray God that in short time shee famish not, but that her liberties bee better maintained.

Procurator, is used for him that gathereth the frutes of a benefice for another man. anno 3. R. 2. stat. 1. cap. 2. And *procraetor* is used for the specialtie, whereby he is authorized. *Ibid.* They are at this day in the West parts called *Proctors*.

Profer (*profrum vel proferum*) is the time appointed for the accompts of Shyreeves, and other officers in the Exchequer, which is twice in the yeare, anno 51. H. 3. *statute quint.* And it may be gathered also out of the *Regist.* fol. 139. in the writ *De Atturato Vicecomitis pro profro faciendo.* I reade also of *profers*, anno 32. H. 8. cap. 21. in these words:

Trinitie Terme shall beginne the Monday next after Trinitie Sunday, whensoeuer it shall happen to fall, for the keeping of the esioines, profers, returnes, and other ceremonies heretofore used and kept. In which place (*profosur*) seemeth to signifie the offer, or indeavour to proceede in action by any man, whom it concerneth so to doe. See *Britton. cap. 28. fol. 50. b.* & *55. a. & fol. 80. b.* and *Fleta li. i. ca. 38. scilicet Utalati* & seqq.

Profer the halfe marke. See *Halfe marke.*

Profissiō (*professio*) is in the common law, used particularly for the entring into any religious Order of Friars, &c. New booke of Entries, *verbo Profission.*

Profis apprender. See *Pren-der.*

Prohibition (*prohibitio*) is a writ framed for the forbidding of any Court, either spirituall or secular, to proceede in any cause there depending, upon suggestion, that the cognition thereof belongeth not to the said Court. *Fitz.nat.br. fol. 39. G.* but is most usually taken, especially in these dayes, for that writ which lyeth for one that is impleeded in the *Cour Christian*, for a cause belonging to the temporall jurisdiction, or the cognisance of the Kings court, whereby as well the partie and his Councell,

as the Judge himselfe, and the Register, or forbidden to proceed any farther in that cause: for that it appertaineth to the dis-inheritance to the Crowne of such right as belongeth unto it. In how many cases this lyeth, see *Brooke hoc titulo*, and *Fitz.na. br. fol. 39. & seqq.* This writ, and the *premunire*, might in these dayes well be spared: for they were helpe to the Kings inheritance and Crowne, when the two swords were in two divers hands. Whereas now both the Jurisdictions being settled in the King, there is small reason of either, except it be to weary the subject by many quircks and delayes, from obtaining his right: of this prohibition, you may reade *Braclton* also *lib. 5. tratt. 5. cap. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.* who saith, that it lyeth not after sentence given in any cause, howsoever the case is altered: and againe, the statute made, *anno 50. Ed. 3.* which ordaineth, that above one prohibition should not lye in one cause. See the diversitie of prohibitions in the table of the *originall Regist.* See the new booke of Entries, *verbo, Prohibition, and Fitzb. nat. br. fol. 39.*

Prohibitio de vasto directa parti, is a writ Judiciall directed to the tenent, and prohibiting him from making waste upon the land

land in controversie, during the suite. *Register judicall*, fol. 21. It is sometime made to the Shy-reeve, the example whereof you have there next following.

Pro indiviso, is a possession, and occupation of lands, or tene-ments belonging unto two or more persons, whereof none knoweth his severall portion, as Coparceners before partition.

Bracon lib. 5. tracta. 2. cap. pri. nn. 7.

Prolocutour of the Convocation house (*prolocutor domus convoca-tionis*) is an officer chosen by per-sons Ecclesiasticall publikely as-semblled by the Kings writ at e-very parliament. And as there be two houses of Convocation, so bee there two prolocutors, one of the higher house, the other of the lower house, who presently upon the first assembly, is by the motion of the Bishops, chosen by the lower house, and presen-ted to the Bishops for their pro-locutour, that is, the man by whom they meane to deliver their resolutions to the higher house, and to have their owne house especially ordered and go-verned. His office is to cause the Clerke to call the names of such as are of that house, when he sees cause, to cause all things pro-pounded to be read by him, to gather the Suffrages, and such like.

Promotors (promotores) be those which in popular and penall actions do deterre the names, or com-plaine of offenders, having part of the profit for their reward. These were called among the Romanes, *Quadruplatores*, or *De-latores*. They belong especially to the Exchequer and the Kings bench. *Smith de Repub. Anglo. li. 2. c.p. 14.*

Pro patribus liberandis, is a writ for the partition of lands between co-heires, *Register originall*, fol. 316.

Prophecie (prophetie) bee in our common law, taken for wi-serly foretellings of matters to come, in certaine hidden and e-nigmatical speeches. Wherby it falleth out many times, that great troubles are stirred in our com-mon-wealth, and great attempts made by those, to whom the speech framed, either by the de-scription of his cognisance, armes, or some other qualitie, promiseth good successe, anno 3. Ed. 6. cap. 15. & anno 7. ejusdem cap. 11. & anno 5. Elizab. c. 15. But these for distinctions sake are called false, or phantasticall prophesies.

Proprietie (proprietas) signifieth the highest right that a man hath or can have to any thing, which is no way depending upon any other mans courtesie. And this none in our Kingdome can bee said

said to have in any lands or tenements, but onely the King in the right of his Crowne. Because all the lands through the realm, are in the nature of fee, and doe hold either mediateley or immediateley of the Crowne. See Fee. This word nevertheless, is in our common law used for that right in lands and tenements, that common persons have, because it importeth as much as (*utile dominium*) though not (*directum*.)

Proprietate probandi, is a writ. See the *originall Regist.* fol. 83. a. & 85. b. It lyeth for him, that will prove a propertie before the Shyreeve. *Brooke Proprietie.* i. For where a propertie is alledged, a replegiare lyeth not. *Idem ibidem.*

Proprietarie (*proprietarius*) is he that hath a propertie in any thing, but is most notoriously used for him, that hath the fruits of a benefice, to himselfe and his heires or successors, as in time past Abbots and Priors had to them and their successors. See *Appropriation.*

Prorata portiovis. See *Ouerando pro rata portiovis.*

Protection (*protectio*) hath a generall and speciall signification. In the generall it is used for that benefite and safetie, that every subject or Denizen, or alien specially secured, hath by the

Kings lawes. And thus it is used, anno 25. *Edw. tertii. capite 22.* Protection in the speciall signification is used for an exemption, or an immunitie given by the King to a person against suites in law, or other vexations upon reasonable causes him thercunto mooving, which I take to be a branch of his prerogative. And of this protection, *Fitzb. maketh two sorte in his nat. br. fol. 28.* The first forme or sorte he calleth a protection, *cum clausula volumus*, whereof he mentioneth foure particulars. A protection, *quia profecturam*, for him that is to passe over sea in the Kings service. A protection *quia moratur*, for him that is abroad in the Kings service upon the sea, or in the marches, anno 7. *H. 7. cap. 2.* A protection for the Kings debtor, that he be not sieued or attached untill the King be payed his debt. See anno 15. *Edw. 3.* This some Civilians call *moratorium*: which see *In singularibus Marante*, verb. *Princeps. p. 79. col. 2.* And a protection in the Kings service beyond the seas, or on the marches of Scotland: whereof you may reade something, anno 1. *R. 2. cap. 8.* See the *Regist. orig. fol. 23.* and *Britton. ca. 123.* The second forme of protection is termed *cum clausula*, *Nolumus*: which is graunted most commonly.

monly to a spirituall company for their immunity from taking of their catell by the Kings ministers. But it may be granted also to one man spirituall or temporall. Of these things read the same author & and the forms of these writs. See also in the Register Originall fol. 22. & 23. And see the new expositor of law termes, to what action the Kings protection doth not extend. See also the new booke of Entries, *verbis protectione*.

Protonotarie, (*protostaristi*)
See *Preignetary*.

Protestation (*protestatio*) is (as Justice *Wolff* defineth it) a defence of safegard to the partie, which maketh it from being concluded by the act he is about to doe, that isse cannot be joyned upon it. *Plowden* fol. 276. b. whereof see the Register originall fol. 306. b. And see *Protest*.

Protest, (*protestarii*) hath two divers applications, one is by way of cantelli, to call witnessse (as it were) or openly to affirm, that he doth either not at all, or but after a sort yeeld his consent to any act, as unto proceeding of a Judge in a Court, wherein his Jurisdiction is doubtfull, or to answer upon his oath farther then he by law is bound. See *Plowden* case *Greybroke*. fol. 276. b. and the Register Originall fo-

306. b. Another is by way of complaint to protest a mans bill: For example, if I give money to merchant in *France*, taking his bill of exchange to be repayed in *England*, by one to whom he assigneth me, if at my coming I finde not my selfe satisfied to my contentment, but either delayed or denyed: then I go into the bursc or some open concourse of Merchants, and protest that I am deceaved by him. And thereupon if he have any goods remaining in any mans hands within the Realme, the Law of Merchants is, that I be payd out of them.

Prouer (*Probator*) See *Approuer*, anno 3. H. 4. ca. 2. See *Approuour*.

Province (*Provincias*) was used among the Romans for a Country without the compassie of *Italie*, gained to their subjection by the sword; whereupon the part of *Frannce* next the *Alpes* was so called of them, when it was in their dominion, and of that carrieth the same name at this present: But with us a province is most usually taken for the circuit of an Archbishops Jurisdiction, as the Province of *Canterbury*, and the Province of *Yorke*. anno 32. H. 8. ca. 23. & anno 33. ejusdem,

dem, cap. 31. yet it is used divers times in our statutes for severall parts of the Realme.

Provinciall (*provincialis*) is a chiefe governour of an order of Friers, anno quir. Henr. quar. cap. 17.

Protorestarius, was he whom the ancient Kings of this Realme made chiefe of Windsor Forest, to heare all causes of death, or mayhem, or of slaughter, or of the Kings Deere within the Forrest. *Camden Brit.* pag. 213. See *Justice of the Forrest*.

Prove. See *prove*.

Provision (*provisio*) is used with us, as it is used in the Canon law, for the providing of a Bishop, or any other person of an Ecclesiasticall living, by the Pope, before the Incumbent be dead. It is also called *gratia expectativa*, or *Mandatum de providendo*. The great abuse whereof in the Pope through all Christendome heretofore, you may read, not onely in *Duarrenus de sacris ecclesie ministeriis, & beneficiis*, l. 3. c. 2. but also for England particularly, in divers statutes of the Realme. viz. anno 25. Ed. 3. ca. 22. stat. 4. & statu. 5. commonly called the statute *de provisioribus*. & anno 27. ejusdem, ca. 1. & anno 38. ejusdem stat. 2. cap. pri. & 2. 3. 4. & anno 38. ejusdens, & anno 2. Rich. 2. cap. 7.

& anno 3. ejusdem cap. 3. & anno 7. ejusdem, cap 12. & anno 12. ejusdem, cap. 15. & anno 13. ejusdem stat. 2. cap. 2. & 3. & anno 16. ejusdem cap. 5. & anno 2. Henr. 4. cap. 3, & 4. & anno 5. ejusdem, cap. prim. & anno 7. ejusdens, cap. 6. & 8. & anno 9. ejusdem, cap. 8. & anno 3. Henr. 5. cap. quan. See *premunire*.

Provvisor (*Provisor*) is he that sieweth to the court of Rome for a provision, *old. nat. br. fol. 143*. See *Provision*.

Proviso, is a condition insereted into any deed, upon the obseruance whereof the validity of the deed consisteth, which forme of condition seemeth to be borrowed from France, for (*Pourvein Gallicum semper conditionem inducit*). *Tiraquel. rome 3. pag. 216*. Our common Lawyers say, that it sometime signifieth but a covenant, whereof you have a large dispute in the second Book of Sir Edward Cookes Reports in the Lord Cromels case. It hath also another signification in matters Judiciall: as if the plantiffe or demandant desist in prosecuting an action, by bringing it to a triall, the defendant, or tenent may take out the *venire facias* to the Shyreeve: which hath in it these words, *Proviso quod*, &c. to this end, that if the plaintiffe

tise take out any writ to that purpose, the Sherif shall summon but one Jury upon them both. See old *Natura brev.* in the writ *Nisi prius*, fo. 159.

Purchas, see *Pourchas*.

Purfles of a womans grawn, anno 33 H.8, ca.5.

Purgation (*purgatio*) is a clearing of a mans selfe from a crime, whereof he is probably and publiquely suspected, and thereof denounced to a Judge. Of this there was great use in England touching matters of Felony imputed to Clearks in former time, as appeareth by *Statu[m] p[ro]l. Cor. li. 2, cap. 48.* See *Clergy*. It is still observed for matter pertaining to the ecclesiasticall Court, as suspicion, or common fame of incontinencie, or such like. Purgation is either *Canonicall* (*canonica*) or *vulgar* (*vulgaris*.) *Canonicall* is that which as prescribed by the Canon law: The forme wherof is usually in the spirituall court, the man suspected taking his oath that he is cleare of the fault objected, and bringing so many of his honest neighbours, being not above twelve, as the court shall assigne him, to sweare upon their consciences and credulitie, that hee sweareth truely, or hath taken a true oath. *Vulgar* purgation was by fire or water, or by combat, used by infidels

and Christians also, untill by the Canon law it was abolished, *sit. 15, de purgatione Canon. & vulga. in Decretalibus*. Combat, though it bee lesse in use than it was, yet is it, and may be stil practised by the lawes of the Realme, in cases doubtfull, if the Defendant chuse rather the combat than other triall. See *Ordell*. See *Combat*.

Purlue, is all that ground i neere any Forest, which being made Forest by *Henry the second*, *Ricard* the first, or king *John*, were by perambulations granted by *Henry the third*; severed againe from the same. *Manwood parte 2* of his Forest lawes, *ca.20.* And he calleth this ground either *pauralee*, i. *perambulationem*, or *purliu*, or *pulny*, which hee saith bee but abusively taken for *paurallee*, *ubi supra*, *num. 3.* But with the licence of that indistirious and learned gentleman, I am bold to say, that this word may be no lesse fitly made of two French words, (*pur*, i. *perm*) and (*lieu*, id est *locus*) and my reason is, because that such grounds as were by tho'e kings subjected to the Lawes and ordinances of the Forest, are now cleared and freed from the same: for as the Civilians call that *perm. locum, qui sepulchrorum religioni non est obstrictus: scil. 9. de rerum divisione institutione*.

so, no doubt, in imitation of that very point. Our ancestors called this *purlieu*, i. *purum locum*, because it was exempted from that servitude or thralldome that was formerly layd upon it. So, *ager purus est, qui neque sacer, neque sanctus, neque religiosus, sed ab omnibus breviusmodi nominibus vacare videtur, lib. 2, sect. 4, π, de religio. & sumptibus funeralium.* And therefore Master Crompton: Purraile is not much amisse, fo. 153, of his Jurisdiction, because we may also derive it from the French words *pur* and *allez*, that is as much to say, as a cleere or a free walke or passage. And where it is sometime called *Pouralee*, that may and doth come from *pur*, and *alee*, i. *itio, prosecutio, ambulatio*: because he that walketh or courseth within that compasse, is cleare enough from the Lawes or penalties incurred by them which hunt within the precincts of the Forest. See the Statute, anno 33 Edw. prim. stat. 5.

Pourlie man, is hee that hath ground within the purlieu, and beeing able to dispend fortie shillings by the yeare of Freehold, is upon these two points licensed to hunt in his owne purlieu: *Manwood, parte 1. of his Forest lawes, pag. 151 and 157.* but what observations he must use in his hunting, see him, pag. 180, 181, 186. See him likewise, par-

te 2. cap. 22, num. 5, 8, 9, 6c. See *Purlieu*.

Purpresture, See *Purpresture*.

Pursey, anno 43 Elizab. cap. 10.

Pursuivant, See *Pursuivant*.

Parveyours, See *Purveyours*.

Pyker, alias Pycar, a kinde of ship: anno 31 Edw. 3, stat. 2, cap. 2.

Q

Quadragesima, is the first Sunday in Lent, so called (as I take it) because it is the fourtieth day before Easter. The sunday before that is *Quinquagesima*: the second before, *Sexagesima*; the third *Septuagesima*.

Quæ plura is a writ that lyeth where an inquisition hath beeene made by an Escheatour in any county, of such lands or tenements as any man died seised of, and all that was in his possession bee not thought to be found by the office. The forme whereof see in the Register original, fo. 293, and in *Fitz. Nat. br.* fo. 255. It differeth from the writ called *melius inquirendo*, as *Fitzh.* there sayth, because this is granted, where the Escheator formerly proceeded by vertue of his office: and the other, where he found the first office by ver-

me of the writ called *Diem clausit extremum*. See the newe Booke of Entries, verbo *Qua plura*.

Querens non invenit plenum, is a returne made by the Sheriff, upon a writ directed unto him, with this condition inserted: *Si A. fecerit B. secundum de loquela sua prosquenda*, &c. Fitzherb. Nat. Brev. fol. 38 v.

Qua servitius is a writ. See *qua servitius*.

Quale ius is a writ judicial that lieth where a man of religion hath judgement to recover land, before execution be made of the judgement, for this writ must be between Judgement & execution, goe forth to the Escheator, to enquire whether the religious person hath right to recover, or the judgement is obtained by collusion betwene the Demaundant and the Tenant, to the intent that the true Lord bee not defrauded. See Westm. 2, cam. 32, *Cam Viri religiosi*, &c. The forme of this writ you may have in the Register judiciall, fol. 8, 16, 17, & 46. And in the old nat. br. fo. 161. See the new booke of Entries, verbo *Quale ius*.

Quare ejicit infra terminum, is a writ that lieth for a Leassee, in case where hee is cast out of his Ferme before his terme be expirred, against the Feoffee or leaf-

sour that ejecteth him. And it differeth from the *Ejectione firma*, because this lieth where the lessor after the lease made inteogetteth another, which ejecteth the leassee. And the *Ejectione firma* lieth against any other stranger that ejjecteth him. The effect of both is all one, and that is, to recover the residue of the terme. See Fitzb. nat. brev. fo. 197. See the Register originall, fo. 227. And the new booke of Entries, verbo, *Quare ejicit infra terminum*.

Quare impedit is a writ that lieth for him who hath purchased a manour, with an advowson thereunto belonging, against him that disturbeth him in the right of his advowson, by presenting a Clerke thereunto when the Church is voyd. And it differeth from the writ called *Affisse ultime presentationis*; because that lieth where a man or his ancestors formerly presented, and this for him that is the purchaser himselfe. See the Expositour of the Termes of the Law, and Old nat. brev. fo. 27. Bracton, lib. 4, tractat. 2, ca. 6. Britton, ca. 92. and Fitzb. nat. brev. fol. 32. and the Register originall, fo. 30. where it is sayd, That a *Quare impedit* is of a higher nature than *Affisse ultime presentationis*, because it supposeth both a possession and a right. See at large

the new booke of Entries, verbo
Quare impedit.

Quare incumbavit, is a writ that lieth against the Bishoppe, which within sixe moneths after the vacation of a Benefice, conferreth it upon his Clearke, whilste two others bee contending in law for the right of presenting. Exposition of the Terms of law, old nat. br. fo. 30. and Fitzb. nat. br. fo. 48. Register origin. fo. 32.

Quare intrusa matrimonio non satisfacto, is a writ that lieth for the Lord against his Tenant beeing his Ward, that after covenable marriage offered him, marrieth another, and entreth nevertheless upon his Land, without agreement first made with his Lord and Gardian. Terms of the Law.

Quare non permittit, is a writ that lieth for one that hath right to present for a turn against the Proprietary. *Flets*, lib. 5, ca. 16.

Quarentine (*quarantine*) is a benefit allowed by the law of England, to the widow of a landed man deceased, whereby she may challenge to continue in his capitall messuage or chiefe Mansion house by the space of forty dayes after his decease. Of this see *Bration*, lib 2, ca. 40. And if the heire or any other attempt to eject her, she may have the writ *De Qua-*

rentina bibenda, *Fitzb. nat. brev.* fo. 161. See anno 9 H. 3, ca. 7. and anno 20, ca. 1. and *Bration*, ca. 103, m. *Skene de verborum significacione*, verbo *Quarentina videturum*, deriveth this word from the French *quarantine*. Who also have this custome called *la quareisme des veuves* granted to widowes after the decease of their husbands : as hee prooveth out of *Papon* in his *Arrests*, li. 15, *titulu dei doss.* cap. 7, and li. 10, *tit. Substitutione*, ca. 30. Of this reade *Flets* also, lib. 5, ca. 23.

Quarentens habenda, is a writ that lieth for a widow to enjoy her *Quarentine*. Register originall fo. 175.

Quare non admisit, is a writ that lieth against the Bishop, refusing to admit his Clerke that hath recovered in a plee of *advowson*. The further use whereof see in *Fitznat. brev.* fo. 47. and Register origin. fo. 32. See the new book of Entries, verbo *quare non admisit*.

Quare obstruxit, is a writ that lieth for him who having a servitude to passe through his neighbours ground, cannot enjoy his right, for that the owner hath so strengthened it. *Flets* li. 4, ca. 26. *scit. Litus siminus.*

Quarter Sessions, is a Court held by the Justices of Peace in every County, once every quarter. The jurisdiction whereof

of how farre it exceedeth, is to be learned out of *M. Lamberts Eirenarchis*: Sir Thomas Smith, de Republ. Angl. li. 2, ca. 19. But to these you must adde the late statutes of the Realme, for their power daily encreaseth. Originally it seemeth to have been erected only for matters touching the peace. But in these dayes it extendeth much further. That these Sessions should be held quarterly, was first of all ordained (so farre as I can leave) by the statute anno 25 E. 3 status. 1, ca. 8. Of this reade *Lamberts Eirenarchis*, the fourth booke throughout, where hee setteth them out both learnedly and at large.

Quashee (*quassare*) commeth of the French *quasser*, i. *quassare*, *conquassare*. It signifieth in our Common Law, to overthrow: *Braeton lib. 5, tractat. 2. cap. 3, m. 4.*

Quercord, anno 17 Edw. 4, ca. 2.

Que est mesme, signifieth, *verbatim*, Which is the selfe same thing. It is used in our Common law as a word of art in an Action of Trespassé, or of like nature, for a direct justification of the very act complained of by the plaintiff as a wrong. For example, in an action of the Case, the plaintiff saith that the Lord threatened his Tenants at will in such sort, as hee drove them to

give up their tenures. The Lord for his defence pleadeth, That hee sayd unto them, That if they would not depart, hee would sive them as the law would. This beeing the same threatening that bee used, or to speake artificially *que est le mesme*, the defence is good. Of this see *Kitchin* in the chapter, *que est le mesme*, fol. 236, where you may have many like examples.

Que estate, word for word signifieth, *quem statum*. It signifieth in our common law a plege, wheby a man entituling another to lands, &c. saith, That the same estate that he had, himselfe hath from him. For example, in a *quare impedite* the plaintiff alledgedeth, That such foure persons were seised of lands, wherunto the Advowisen in question was appendant in fee, and did present to the Church, and afterward the Church was voyd, *que estat del*, &c. that is, which estate of the foure persons, hee sayth also, that he hath now during the vacation, by vertue whereof he presently, &c. *Brooke titulo Que estate*, fo. 175 & 176. But it is harder to know, when this *Que estate* is to bee pleaded, than to understand what it is, as by him may appeare. See the new book of Entries, *verb. Que estate*.

Queene (*Regina*) is either she that holdeth the Crowne of this Realme

Realme by right of blood, or else shee that is married to the King. In the former signification shee is in all construction the same that the King is, and hath the same power in all respects. In the other signification shee is inferiour, and a person exempt from the King : for shee may siew and be siewed in her owne name. Yet that she hath is the Kings, and looke what shee loseth, so much departeth from the king. *Statut. pravog. c. 2, fo. 10, in fine.* See *Kitchin* fo. 1, b. See *Croke* li. 4, *Copy-hold cases* f. 23 b. *Augusta* was the like among the Romanes, howbeit not *eiusdem juris* in all things.

Quenes silver, See *Kings silver*.

Quem redditum reddat, is a writ judiciall that lieth for him to whom a rent seek or rent charge is graunted by fine levied in the Kings court, against the Tenant of the land, that refuseth to atturne unto him, thereby to cause him to atturne. See old *nat. br.* fol. 156. and *West, parte 2, symbol. titulo Fines*, sect. 125. See the new book of Entries, verb. *quem redditum reddit*.

Querela frusca fortia, is a writ. See *Freshiforce*.

Querela coram regi & consilio dissentiendo & terminanda, is a writ whereby one is called to justifie a complaint of a trespass made to the King and himselfe before the

king and his Council. *Regist. orig. fo. 124 b.*

Questus est nobis &c. is the form of a writ of Nuisance, which by the statute *an. 13 Ed. 1, ca. 24*, lieth against him to whom the house or other thing that breedeth the Nuisance, is alienated : wheras before that statute, this action lay onely against him that first levied the thing to the hurt of his neighbor. See the statute.

Quia improvide, seemeth to be a *Supersedeas* granted in the behalfe of a Clearke of the Chauncery, siewed against the priviledge of that Court, in the Common plees, and per-siewed in the exigend. See *Dyer*, f. 33 n. 18.

Quid juris clamat, is a writ judiciall, issuing out of the record of the fine, which remaineth with the *Custos invium* of the Common place, before it be ingrossed (for afterward it cannot be had) and it lieth for the Grauntee of a Reversion or remainder, when the particular tenant will not atturne. *West, parte 2, Symb. tit. Fines*, sect. 118. Whom see further. See the *Register judiciall*, 36, 57. And the new book of Entries, Verbiis *Quid juris clamat*.

Quinquagesima Sunday, is alway the next Sabbath before Shrovetide : so called because it is the fiftieth day before Easter.

Easter. The reason of this appellation who so desireth to know, hee may finde divers such as they bee, in Durandi rationali *Divinorum, Capit. de Quinquagesima.* Sexagesima Sunday is the next Sabbath before *Quinquagesima*, so called in the opinion of the sayd Author, because the number of sixty consisteth of sixe times tenne: sixe having reference to the sixe workes of mercy, and tenne, to the tenne Commandements. *Sepmagesima.* is the next before *Sexagesima*, and is instituted and so called, as Durand likewise sayth, for three things: and (to use his owne words) *Primo*, propter redemptionem *Sabbati*, *vel secundum alios*, quinta ferie, in qua sancti patres statuerunt *jejunari*. *Secundo* propter representationem, quoniam representat *sepmaginta annos captivitatis Babylonicae*. *Tertio*, propter significationem, quoniam per hoc tempus significatur deviatio, exilium, & tribulatio *tatius humani generis ab Adam usq; ad finem mundi*: *quod quidem exilium sub revolutione septem dierum peragitur*, & sub septem millibus annorum includitur. But of these three dayes you may reade him at large, that have a minde to learme of him. I onely take occasion to note, what time of the yeare they bee, because I finde them spoken of in ou-

cient law writers, as *Brit. c. 23*, and such like.

Quite claime (*quiete clamantia*, *vel quieta clamantia*) is a release or acquiring of a man for any Action that hee hath, or might have against him. *Braetton*, *li. 5*, *tract. 5*, *ca. 9*, *nn. 9*, *lib. 4*; *tractat. 6*, *ca. 13*, *nn. prim.*

Quittance (*quietantia*) See *Quittance*.

Quid pro quo, is an artificiall speech in the Common-Law, signifying so much as the Greeke *συναλλαγμα* among the Civilians, which is a mutuall protestation or performance of both parties to a Contract: as a horse and ten pound betweene the buyer and the seller. *Kitchin* *fo. 184*.

Quinsieme (*decima quinta*) is a French word signifying a fifteenth. It is used in our common Law, for a Taxe layd upon the subjects by the Prince, *anno 7 Hen. 7*, *ca. 5*. So termed, because it is raised after the fifteenth part of mens lands or goods. See *Fifteenth*, and *Taxe*. The Fifteenth, as *Crompton* sayth in his *Jurisdic^t. fol. 21*, is levied more commonly in these dayes by the yards of land: and yet in some places by goods also: and note also, that he there sayth, that it is well knowne by the Exchequer Rolle, what every

towne through England is to pay for a fifteenth. Sometime this word *quinquagesima* is used for the fifteenth day after any feast, as *Quinagesima* of Saint John Baptist, anno 13 Edw. prim. cap. 3. & anno decimus octavo. ejusd. capit. prim.

Quod ei deforciat, is a writ that lieth for the Tenant in taile, Tenant in Dower, or tenant for tearme of life, having lost by default, against him that recovered, or against his heire. Exposition of terms. See *Brook hoc tit.* See the *Reg. origin.* fo. 171. and the new Booke of Entries, verbo *quod ei deforciat*.

Quod permittat, is a writ that lieth for him that is disseised of his Commune of pasture, against the heire of the disseisor beeing dead. Tearmes of the Law. *Briton*, cap. 8 sayth, That this writ lieth for him, whose auncestour died seised of commune of pasture, or other like thing annexed to his inheritance, against the Deforceour. See *Brook hoc titula*. See the *Register origin.* fo. 155. and the new booke of Entries, verbo *Quod permittat*.

Quod Clericis non elegans in officio ballivi, &c. idest, a writ that lieth for a Clerke, which by reason of some land he hath, is made, or in doubt to be made either Baylife, Bedell, or Reeve,

or some such like officer. See *Clerico infra sacros*, &c. See the *Regist. orig.* fo. 187. *Fitzh. nat. br.* fol. 175.

Quod Clerici beneficitiis de Cancelleria, &c. is a writ to exempt a Clearke of the Chauncery from contribution toward the Proctors of the Clergy in Parliament. *Register originall*, fol. 261 a.

Quod persona, nec Prebendarii, &c. is a writ that lieth for spirituall persons that are distreined in their spirituall possessions, for the payment of the fifteenth with the rest of the parish. *Fitz. nat. br.* fo. 176.

Quod non permittat. See *Consuetudinibus & servitius*.

Quo Jure, is a writ that lieth for him that hath land, wherein another challengeth commune of pasture time out of minde. And it is to compell him to shew by what title hee challengeth this Commune of pasture. *Fitzherberts natura brevium* fo. 128. Of this see *Briton* more at large. ca. 59. See the *Regist. orig.* fo. 156. and the new book of Entries, verbo *Quo jure*.

Quo minus, is a writ that lieth for him that hath a Graunt of House-bote and Heybote, in another mans woods, against the Graunter making such waste, as the Grantee cannot

cannot enjoy his graunt, *old nat.* br. fol. 148. Termes of law: see *Brooke, hoc titulo.* See *Kitchin, fol. 178.b.* This writ also lyeth for the Kings fermer in the Exchequer, against him to whom hee selleth any thing by way of bargaine touching his ferme. *Perkins Graunts.* 5. For hee supposeth, that by the breach of the vendee hee is disabled to pay the King his rent.

Quo warranto, is a writ that lyeth against him, which usurpeth any *Fraunceis* or liberty against the King, as to have wayfe, stray, faire, market, court Baron, or such like, without good title. *old nat. br. fol. 149.* or else against him that intrudeth himselfe as heire into land. *Braction, lib. 4. tractat. 1. cap. 2. numb. 3.* See *Brook hoc titulo.* You may read of this also anno 18. *Edw. prim. Stat. 2. & 3. & anno 30. ejusdem.* And the new booke of Entries. *Quo warranto.*

R.

Racke vintage, anno 32. H. 8. c. 14. is a second vintage or voyage for wines by our Merchants into *Fraunce, &c.* For racking wines, that is, wines cleasned and so purged that it may be and is drawne from the leese. From this voyage our Merchants commonly returne about the end of De-

cember, or beginning of January.

Redknights. See *Rodeknights.*

Ran, is a Saxon word, signifying so open a spoiling of a man, that it cannot be denied. *Lamb. Archam fol. 125.* defineth it thus: *Ran dicitur aperta rapina, qua negari non potest.*

Ransome (*redemptio*) commeth of the French (*rancon*) or (*rencon*) i. *redemptio.* It signifieth properly with us, the summe paid for the redeeming of a Captive: and sometime a great summe of money to bee paid for the pardoning of some hainous crime. *anno pri. H. 4. cap. 7.* Note that when one is to make a fine, and Ransome, the Ransome shall be treble to the Fine. *Cromptons Justice of peace. fol. 142. a.* and *Lamb. Eirenarch. lib. 4. cap. 16. pa. 556.* Horne in his mirrorre of Justices, maketh this difference betweene amerciament, and ransome, because ransome is the redempcion of a corporall punishment, due by law to any offence. *lib. 3. cap. de amerciament taxable.*

Rape (*rapuvelnapa*) is a part of a county, signifying as much as a Hundred. As *Somerset* is divided into sixe parts, which by a peculiar name are called *rapes*, viz. the Rape of *Chichester*, of *Arundell*, of *Brember*, of *Lewis*, of *Puensey*, of *Hastings*. *Camden*

Briton. pag. 225. whom also see pag. 229. These parts are in other places called Tythings, Lathes, or Wapentakes. *Smith de repub. Angl.* li. 2, ca. 16.

Rape (*raptus*) is a felony committed by a man in the violent deflowering of a woman, be she old or young, *Briton* ca. 1. whereof *Westparte* 2, *Symb. titulo Indictments*, sect. 54, hath these words, Copulation violent, is termed a rape or ravishment of the body of a woman against her will: which is carnall knowledge had of a woman, who never consented therunto before the fact, nor after. (And this in Scotland ought to be complained of the same day or night that the crime is committed. *Skene*, *de verborum signific.* verbo *raptus*. His reason, *quia lapsus diei hoc crimen prescribitur.*) This offence is with us Felony in the Principall, and his ayders anno 11 Hen. 4, cap. 13, anno pri. Edw. 4, ca. 1. *West* 2, ca. 13. But *Elata* saith, That the complaint must bee made within forty days, or else the woman may not bee heard, *Lib. 3, ca. 5, sect. preterea.* And carnall knowledge of a woman under ten yeares old, is felony, *Anno 8 Elizabeth*, ca. 6. Thus farre Master *West*. Of the diversity of Rapes, see *Crompions* Justice of peace, fol. 43, b. and 44. See *Ravishment*. The Civile law useth *raptus* in the

same signification. And *rapere virginem vel mulierem, est ei viuis inferre & violare.* *Co. li. de rapitu virginis.*

Raptu heredis, is a writ lying for the taking away of an heir holding in Socage: and of this there bee two sorts, one when the heire is maried, the other when hee is not. Of both these see the *Regist. origin.* fo. 163 b.

Rastall was a lawyer of reverend account that lived in *Queene Maries* dayes, and was a Justice of the Common plees: he gathered the Statutes of the land into an abridgement, which carrieth his name at this day. He is also the Authour of the new book of Entries.

Ratification (*ratificatio*) is used for the confirmation of a Clearke in a Prebend, &c. formerly given him by the Bishop, &c. where the right of patronage is doubted to be in the King. Of this see the *Register originall*, fol. 304.

Rationabili parte bonorum, is a writ that lieth for the wife, against the Executours of her husband, denying her the third part of her husbands goods, after debts and funeral charges defrayed. *Fitzb. nat. Brev.* fo. 222. Who there citeth the eighteenth Chapter of *Magna Charta*, and *Glanvill*, to prove, that according to the commō law of England, the goods

goods of the deceased, his debts first payd, should be divided into three parts, whereof his wife to have one, his children the second, and the Executours the third. *Fitzherbert* saith also, that this writ lieth as well for the children as for the wife. And the same appeareth by the *Regist.* original fo. 142 b. I have heard some learned men say, that it hath no use but where the custom of the country serveth so fit. See the new book of Entries, verbo *Rationabilis parte*, & *rationabilis parte bonorum*.

Rationabilibus divisit, is a writ which lieth in case, where two Lords in divers townes have their seigneuries joyning together, for him that findeth his waste by little and little to have beene encroached upon within memory of man, against the other that hath encroached, therby to rectifie the bounds of their Seigneuries. In which respect *Fitzherbert* calleth it in his owne nature, a writ of right. The old *natura brevia* sayth also, That this is a Justices, and may bee remooved by a posse out of the County, to the Common bank. See further the forme and use of this writ in *Fitzherbert's natura brevia*, fo. 128. and in the *Reg.* fo. 157 b. and the new book of Entries, verbo *rationabilibus divisit*. The Civilians call

this, *Judicium finium regundorum.*

Ravishment (*raptus*) commeth of the French *ravissement*, i. *direptio*, *creptio*, *raptio*, *raptus*, *raptura*; and signifieth in our law, an unlawfull taking away either of a woman, or of an heire in ward. Sometime it is used also in one signification with rape, viz. the violent deflowering of a woman. See *Rape*. And thereupon is the writ called *ravishment de gard*, otherwise called *de herede abductio* lying for the Lord, whose tenent by reason of his tenure in Knights service being his ward, is taken and conveyed from him. See *Fitz. nat. br.* in the writ *De recto de custodia*, fo. 140 f. See also the old *nat. br.* fo. 92, 93, & 94. See the new booke of Entries, verbo *Rape*, & *ravishment de gard*.

Rawne, an. 4 Ed. 4, ca. 1.

Rawnger, commeth of the French *franger*, i. *affrancere*, *ordinare*, or else the substantive *rang*, i. *ordo*, *series*.) It is used in our common law both as a verbe (as, to rawnge) and also as a substantive (as to make rawnger) *Carta de Foresta*, ca. 6. The word is appropriated to the Forest, signifying the office of the Rawnger. The Rawnger is a sworne officer of the Forest, of which sort there seem to be twelve, *Carta de foresta*, ca. 7, whose authority is partly declared in his oath, set downe

by *M. Mawwood parte pri. of his Forest laws*, page 50, in these words. You shall truely execute the office of a Rawnger in the Purluite of *B.* upon the borders of the Kings Forest of *W.* you shall rechase and with your hound drive back againe the wild beasts of the Forest as often as they shall raunge out of the same Forest into your Purlieuse. You shall truely present all unlawfull hunting, and hunters of wild beasts and venery, as well within the purlieuse, as within the Forest. And these and all other offences you shall present at the Kings next court of Attachments, or Swainmore, which shall first happen, so helpe you God, but the same author setteth down his office more particularly in his second part, cap. 20. num. 15. 16. & 17. The summe whereof is this. A Raunger is an officer of the Forest, or to the Forest, but not within the Forest, having no charge of vert, but only of venison that commeth out of the Forest into his charge, or part of the pourallee, to safe conduct them back againe. And therefore in those Forests that have no pourallees, there be no Rawngers, but Foresters serve the turne. This Raunger is made and appointed by the King his Letters-patents under the great seale, and for

his better encouragement in his duty, hee hath a yearly fee of twenty pound or thirty pound payd out of the Exchequer, and certaine fee Deere both red and fallow. His office consisteth chiefly in these three points, *ad perambulandum quotidie per terras de afforestatis, ad videndum, audiendum et inquirendum, tam de malefactis, quam de malefactoribus in balliva suis: ad resigandum feras forestarum venieris quam chasae de terris de afforestatis, in terras afforestatas: & ad presentandum omnes transgressiones Forestae in terris de afforestatis factas, ad proximas curias illius forestae tentas.*

Ransom, see *Ransom*.

Ray seemeth to be a word attributed to cloath never coloured or dyed, v. an. 11 H. 4, ca. 6.

Realty, see *Royalty*.

Reasonable ayd (*rationabile auxilium*) is a duty that the Lord of the fee claimeth of his tenants holding by Knights service or in socage, to marry his daughter, or to make his sonne Knight. *West* 1, ca. 39. See *Ayd*. See *Brooke*, *titulus Reasonable ayd*.

Reattachment (*Restrictiōnē*) is a second attachment of him that was formerly attached, and dismissed the Court without day, as by the not coming of the Justices, or some such like casualtie. *Brook fit. Reattachment*: where hee maketh a *Reat-*

Reattachment generall, and a Reattachment speciall. Re-attachment generall seemeth to be, where a man is reattached for his appearance upon all writs of assise lying against him. *Brooke codm. num. 14.* Then speciall must be for one or more certaine, Register judicciall, fo. 35. See the new booke of Entries, verbo *Reattachment.*

Rebellion, (*rebellio*) is a French word, signifying the taking up of armes against the King or present Estate. This French commeth from the Latine (*rebellio*) which signifieth a second resistance of such as being formerly overcome in battell by the Romanes, yeelded themselves to their subjection. The French men and wee use it generally for the traiterous taking up of armes against the estate, be it by naturall subjects, or by others formerly subdued. Reade more of this, lib. 3 *Feudorum*, ca. 61. and *Hotoman* upon the same Chapter. See the Writ of rebellion. *Rebell* is sometime attributed to him that wilfully breaketh a law, anno 25 *Edw. 3*, ca. 6, and anno 31 *ejusdem*, stat. 3, ca. 2. Sometime to a Villein disobeying his Lord : anno 1 *R. 2*, c. 6.

Rebellions assembly, is a gathering together of twelv^e persons or more, intending or going about, practising or putting in ure

unlawfully of their owne authority to change any lawes or statutes of this realme, or to destroy the inclosure of any Parke or ground inclosed, or bankes of any fishponds, pool, or conduit, to the intent the same shall remaine voyd, or to the entent unlawfully to have Common, or way in any of the sayd grounds, or to destroy the Deere in any Parke, or any Warren of Conies, or Dove-houses, or fish in any ponds or any house, barnes, Mills, or bayes, or to burne stacks of corne, or to abate rents, or prices of victuals, *an. pri. Mar. 12. & anno 1. Eliz. cap. 17.* See *West. parte 2. symb. titulo Inditem. Sect. 65.* And *Crompt. Justice of peace. fo. 41.b.*

Rebutter, commeth of the French (*Bouter* i. *pel're, impelle're, propellere, intrudere*) and signifieth in our common law the same thing. For example, a man giveth land to him and the issue of his body, to another in Fee with warrantie. And the *Donee* leaseth out his land to a third for yeeres. The heire of the *Donour* impleadeth the Tenant, alledging that the land was in taile to him. The *Donee* commeth in, and by vertue of the warrantie made by the *Donour*, repelleth the heire, because though the land were intailed to him, yet he is heire to the warrantee likewise;

wife : and this is called a Rebutter. See *Brooke, titulo barre, num. 13.* And againe, if I grant to my tenent to hold *sine impetione vestis*, and afterward I implead him for waste made, he may debarre me of this action, by shewing my grant. And this is likewise a Rebutter, *idem eodem i. num. 25.* See the new book of Entries, *verb Rebutter.*

Rouant, an. 32 H.8, c. 2.

Recaption (recaptio) signifieth a second distresse of one formerly distrest for the selfe same cause, and also during the plee grounded upon the former distresse. It likewise signifieth a writ lying for the party thus distreined, the forme and further use whereof you may see in *Fitz. nat. br. fo. 71.* and the *Regist. orig. fo. 86.* and the *Register Judiciali*, fo. 69. and the new booke of Entries, *verb Recaption.*

Receyver (receptor, or receptator) generally and indefinitely used, is as with the Civilians, so also with us, used commonly in the evill part, for such as receive stollen goods from theeves, and conceale them, *li. 1. n. de receptato-ribus.* But annexed to other words, as the receiver of rents, &c. it signifieth many times an officer of great account, belonging to the King, or other great personage. *Cromptons Jurisdic-
sol. 18.* There is also an Officer

called the Receiver of Fines, who receiueth the money of all such as compound with the King in the office of the Finances, for the buying of any lands or tenements helden in Capite. *West parte 2, symb. titulo Fines, scil. 106.* Receiver of all offices accountable, *an. 3 Ed. 4,
ca. 1.*

Receiver generall of the Duchy of Lancaster, is an office belonging to the Duchy Court, that gathereth in all the revenues and fines of the lands of the said Duchy, and of all forfeitures and assessements, or what else is thence to be received.

Receiver generall of the Court of Wards and Liveries, is an Officer belonging to that Court, that is to receive all rents, revenues, and fines of the lands belonging to his Majesties Wards, as also the fines for licences to the Kings widowes to marry, of *ouster le maine* sued out : and for ideots and lunatickes land, and finally all other profits whatsoever, in money arising to his Majestie out of, or by reason of the court of Wards and liveries.

*Receiver generall of the Mu-
ster Rolles,* anno 35 Elizabeth. ca. 4.

*Receiver generall of the Du-
chy of Lancaster, of the Wards
and liveries,* anno 39 Elizab.
ca. 7.

Receyt, See Receil.

Reftuse,

Recluse (Reclusus) is he, that by reason of his order in religion; may not stirre out of his house or cloyster. *Littleton* fol. 92.

Recognisance (Recognitio) com-
meth of the French (*Recogni-
sance, r. agnatio, recognitio*) and in our common law is thus de-
fined. A *Recognisance* is a
bond of record, testifying the
recognizour to owe unto the
recognizee a certaine summe
of money, and is knowled-
ged in some Court of Record,
or before some Judge, or o-
ther officer of such Court, ha-
ving authoritie to take the same:
as the Masters of the Chaun-
cerie, the Judges of either
Bench, Barons of the Exche-
quer, Justices of peace, &c. And
those that be meere *Recognisa-
nces* are not sealed, but inrolled:
And execution by force thereof
is of all the recognisours goods,
and charels, except his draught
beasts, and implements of hus-
bandry, and of the moitie of
his lands. *West. parte prim. symb.
lib. 2. titulo Recognisances, sect.
149.* And of these you may
see their great diversitie of pres-
idents.

Note farther, that a *Recognizance*, though in the spe-
ciall signification, it doe but
acknowlede a certaine debt,
and is executed upon all the

goods, and halfe the lands of
the recognisour: yet by extention
it is drawne also to the Bonds,
commonly called *Statute Mer-
chant*, and *Statute of the Staple*:
as appeareth by the *Register ori-
ginall, fol. 146. 151, & 252.* and
by *West. ubi supra*, and others.
See *Statute Merchant*, and *Sta-
tute Staple*.

Recognisance hath yet ano-
ther signification, as appeareth
by these words in the *Statute*,
West. 1. cap. 36. anno 3. Edw. 1.
It is provided also, and agreed,
that if any man be attainted of
dissesin done in the time of
our King that now is, with
robbery of any manner of goods,
or moveables, by recognisance
of Assise of *novel disseisin*, the
judgement shall, &c. In which
place it is used for the verdict
of the twelve men empaneled
upon an *Assise*, which twelve
are also called *recognitours of
the Assise*. *Littleton, fol. 72.* So
also *Bracton* calleth them, *lib. 5.
tractat. 2. cap. 9. num. 2.* in these
words: *In essonio vero reddendo
exigentur omnes illi, quos causa
reigerit: sicut particeps, Warranto,
& alij ut supra: Recognitores
in Assisis, Juratores in Juratis,
Inquisidores inquisitionibus, &c.*
And againe, *lib. 3. tract. 1. cap. 11.
num. 16.* See the *Statute anno 20.
Ed. prim. stat. 4.* See the new
book of Entries, *viz. recognisance.*

*Recognitione adnullanda per vim
& duriorum facta*, is a writ to the Justices of the Common Bench, for the sending of a record, touching a recognisance, which the Recognisour suggesteth to bee acknowledged by force and hard dealing, that if it so appeare, it may be disannulled, *Register originall*, folio 183. a. b.

Recognitours (*recognitores*) is a word used for the Jury empanelled upon an assise. The reason why they bee so called, may be, because they acknowledge a disseisin by their verdict. See *Bracton*, lib. 5. tract. 2. cap. 9. m. 2. & lib. 3. tract. prim. cap. 11. num. 16.

Record, (*recordum*) commeth of the Latine (*recordari*). The word is both French and English, and in both tongues signifieth an authenticall or uncontroulable testimonie in writing, *Britton*, cap. 27. and *Lamb.* *Eirenarch*, lib. 1. cap. 13. In the Grand Custumary of Normandy, there are severall Chapters of divers Records, expressing whose presence in each of the Courts, is sufficient to make that which is enacted to be a record, viz. the 102. Chapter, where you have words to this effect. The record of the Kings Court, is a record of things done before the King. All things done before the King,

so hee have one other witnesse. This record may he and other make: if hee himselfe will not make it, it may bee made by three others. And his person may not be impeached (or excepted against) either in this or any other thing. The next chapter, viz. the 103. sheweth how many persons suffice to make a Record in the Exchequer. The next how many in an assise, &c.

I finde not that wee in our Courts, (especially the Kings Courts), stand much upon the numbers of Recorders or witnesses for the strength of the testimony which the Record worketh: but that wee take it sufficient which is registered in each Court. *Glanvik*, lib. 8. cap. 8. *Bracton*, lib. 3. tract. 2. cap. 37. num. 4. *Bretton* in the Proeme of his booke saith, that the Justices of the Kings Bench have a Record, the Coroner, Vicount, Justices of the Exchequer, Justices of Goale delivery, the Steward of England, Justices of Ireland, Justices of Chester, Justices assigned by the Kings letters patents, in those causes they have commission to take knowledge of. All which (as I take it) must be understood with that caveat of *Brooke*, titulo { Record } num. 20. & 22. that an act committed to writing in any of the Kings Courts,

Courts, during the terme wherein it is written, is alterable, and no record: but that terme once ended: and the said act duly enrolled, it is a record, and of that credit, that admitteth no alteration, or prooфе to the contrarie. Yet see Sir Edw. *Cookes Reports lib. 4. Rawlins case. fol. 52. b. an. 12. Ed. 2. cap. 4.* It is said, that two Justices of either Bench have power to record Non suites, and Defaults in the Countrey. It appeareth by *Bracton, lib. 5. tract. 2. c. 1. & 11. that quatuor milites habent recordum*, being sent to view a partie essoined *de malo lecti*, and *lib. 5. tract. 1. cap. 4. nn. 2.* that *Serviens Hundreds habet recordum in testimonio proborum hominum*. And in the Statute of *Carleil*, made anno 15. Ed. 2. it is said, that one Justice of either Bench, with an Abbot or a Prior, or a Knight, or a man of good fame and credence, hath a record in the view of one that is said by reason of ficknesse, to be unable to appeare personally for the passing of a fine. And anno 13. H. 4. cap. 7. & anno 2. H. 5. cap. 3. that two Justices of peace, with the Shyreeve, or undershyreeve have power to record, what they finde done by any in a ryot, or rout, &c.

That which is before mentioned out of *Britton* touching the Shyreeve, seemeth to be limited

by *Fitzb. nat. br. fol. 81. D.* Who alloweth him a Record in such matters onely, as he is commanded to execute by the Kings writ, in respect of his office. And thence it commeth that *Kitchin fol. 177.* saith, that the Escheatour, and Shyreeve, be not Justices of record, but officers of record. In which words he signifieth, that their testimony is authenticall onely in some certaine things that are expressly enjoyned them by vertue of their Commission, as ministers to the King in his higher Courts, whereas Justices of record have in generallie a record for all things within their cognisance done before them as Judges, though not expressly or particularly commaunded. *Fitzb.* in his *Nat. br. fol. 82. in principio*, something explaineth this point, writing to this effect: Every act that the Shyreeve doth by vertue of his commission, ought to be taken as matter of record, no lesse than the Justices of peace. His reasons be two: the former, because his patentis of record: the other, because he is a conservatour of the peace. And then he addeth, that the plees held before him in his Countie be not of record. Yet is the countie called a Court of record. *Westm. 2. cap. 3. anno 13. Ed. 1.* But it seemeth by *Britton, cap. 27.* that it is onely in these

causes, whereof the Shyreeve holdeth plee by especiall writ; and not those that hee holdeth of course or custome. And in that case also it may be gathered out of the same authour, that he hath a record, but with the testimony of those annexed, that besuites to the Court. Which seemeth to agree with *Bracton's* words above specified. *Serviens Hundredi habet recordum in testimonio proborum bonum.* And to this purpose read *Glanvile*, lib. 8. c. 8; 9, & 10. One Justice upon view of forcible detinew of land, may record the same by statute. anno 15. R. 2: cap. 2. the Major, and Constables of the Staple, have power to record Recognisances of debt taken before them. anno 10. H. 6. ca. 1.

Brooke, titulb (Record) seemeth to say, that no court Ecclesiastical is of record: how truly, it is to be inquired. For Bishops certifying bastardy, bigamy, excommunication, the vacancy or plenariety of a Churh, a mariage, a divorce, a spirituall intrusion, or whether a man be professed in any religion, with others such like, are credited without farther enquiry or controlment. See *Brook*, titulb *Bastardy*. See *Fleta*, lib. 6. cap. 39, 40, 41, 42. *Lamb*, eirenarcha, lib. pri. cap. 13. *Glanvile*, lib. 7. cap. 14, & 15. the Register originall, fol. 5. b. *Bracton*, lib. 5.

tradit. 5. ca. 20. un. 5. *Britton*, ca. 92. 94. 106, 107, & 109. *Doct. and Sand.* li. 24 ca. 5. but especially *Cosmias apology*, parte pri. ca. 21. And a testament shewed under the seale of the Ordinary is not traversable. 36. H. 6. 31. *Perkins Testament*, 491. *Fulb*, paral. fol. 61.b. But it may be that this opinion groweth from a difference betweene that law, whereby the court Christian is most ordered, and the common Law of this land. For by the civill or canon law no Instrument, or Record is held so firme, but that it may be checked by witnessesse able to depose it to be untrue. *Co. plus valere quod agitur quam quod simulat concipitur*, ca. cim *Johannes 10. extra: de fide instrumentorum*. Whereas in our common Law against a Record of the Kings Court, after the terme wherein it is made, no witnessesse can prevaile. *Britton*, ca. 109. *Coke lib. 4. Hindes case*, fol. 71. lib. affidatus, fol. 227. *Wata*, 21. This reconciliatiōn may be justified by *Brook* himselfe, titulb, *Testaments*, num. 4. 8. & 14. and by *Glanvile*, lib. 8. cap. 8.

The King may make a Court of record by his grant. *Glanvil.* li. 8. ca. 8. *Britton* cap. 121. as for example, Queene Elizabeth of worthy memory by her Charter dated, 26. Aprilis, anno 3. regni sui made the Consistory Court of the

the Universitie of Cambridge a Court of Record.

There are reckoned among our common lawyers three sorts of records: viz. A record judiciali, as attainder, &c. A record ministeriall upon oath, as an office found. A record made by conveyance by consent, as a fine, deed enrolled, or such like. *Coke, li. 4. Andrew Ognels case. fo. 54. b.*

Recordare facias; or *recordari facias,* is a writ directed to the Shyreeve, to remove a cause depending in an inferiour court, to the Kings bench, or common plees, as out of a court of ancient Demesne, Hundred, or Countie, *Fitz. nat. br. fol. 71. B.* out of the countie Court. *idem, fo. 46. B.* or other courts of record. *idem fol. 71. C. & 119. K.* Howbeit, if you will learne more exactly, where, and in what cases this writ lyeth, reade *Brooke* in his *Abridgement, titulo, Recordare & posse.* It seemeth to be called a *recordare*, because the forme is such, that it commandeth the Shyreeve to whom it is directed, to make a record of the proceeding by himselfe, and others, and then to send up the cause. See the *Register, verbo, Recordare*, in the Table of the originall Writs. See *Certiorari.* See *Accedas ad Curiam.*

Recorder (recordator) commeth

of the French (*recordeur*. i. *taliis persons que in Ductis curia è iudicio faciendo non debet amoveri.*) *Grand Custumary of Norm. cap. 107. & 121.* Whereby it appeareth, that those which were necessary Judges in the Duke of Normandies Courts, were called *Recorders*: and who they were, is shewed in the ninth chapter of the said booke. And that they, or the greater part of them, had power to make a record, it is evident in the chapter 107. Here in *England* a Recorder is he, whom the Major or other Magistrate of any Citie, or Towne corporate, having Jurisdiction, or a Court of record within their precincts by the Kings grant, doth associate unto him for his better direction in matters of Justice and proceedings, according unto law. And he is for the most part a man well scene in the common law.

Recordo & processu mittendis, is a writ to call a Record, together with the whole proceeding in the cause out of one Court into the Kings Conrt. Which see in the Table of the *Register orig.* how diversly it is used.

Recordo ut lagarie mittendo, is a writ Judiciall, which see in the *Register judiciall, fol. 32.*

Recoverie (Recuperatio) comes of the French *Recouvrer*: i. *Recupereare.* It signifieth in our common

law, an obtaining of any thing by Judgement, or tryall of law. as *evictio* doth among the Civilians. But you must understand, that there is a true recovery and a feigned. A true Recovery is an actuall, or reall recovery of any thing, or the value thereof by Judgement : as if a man siewed for any land, or other thing moveable or immoveable, and have a verdict, and Judgement for him. A feigned recovery is (as the Civilians call it) *quodam fictio juris*, a certaine forme, or course set downe by law, to be observed for the better assuring of lands or tene-ments unto us. And for the better understanding of this, reade *West. parte 2. symbol. titulo Recoverius, sect. pri.* who saith, that the end, and effect of a Recoverie, is to discontinue and destroy estates Tayles, Remandess, and Reversions, and to barre the former owners thereof. And in this formalitie there be required 3. parties, *viz.* the Demaundaunt, the Tenant, and the Vowchee. The Demaundaunt is hee that bringeth the writ of Entry, and may be termed the Recoverer: The Tenant is he, against whom the writ is brought, and may be termed the Recoveree. The Vowchee is he, whom the tenant vowcheth, or calleth to war-rantie for the land in demaund.

West. ubi supra. In whom you may reade more touching this matter.

But for example, to explaine this point, a man that is desirous to cut off an estate taile in lands or tenements, to the end, to sell, give, or bequeath it, as himselfe feeth good, useth his friend to bring a* writ upon him for this land. Hee appearing to the writ sayth for himselfe, that the land in question came to him, or his auncesters from such a man or his auncester, who in the conveyance thereof, bound himselfe and his heires to make good the title unto him or them to whom it was conveyed. And so he is allowed by the court to call in this third man to say what he can for the justifying of his right to this land, before hee so conveyed it. The third man commeth not: whereupon the land is recovered by him that brought the writ: and the tenant of the land is left for his remedie to the third man that was called and came not in to defend the tenant. And by this meanes the entayle which was made by the tenant, or his Auncester, is cut off by judgement hereupon given: for that he is pretended to have no power to entayle that land, whereunto hee had no just title, as now it appeared: because it is

is evicted, or recovered from him.

This kind of recovery is by good opinion, but a snare to deceive the people. *Dodder & Stud.* ca. 32. dial. pri. fol. 56. a. This feigned Recovery is also called a common Recovery : And the reason of that *Epitheton* is, because it is a beaten and common path to that end, for which it is ordained, *viz.* to cut off the estates above specified. See the new booke of Entries, verbo. Recovery.

I laid before, that a true recovery is as well of the value, as of the thing : for the better understanding whereof, know, that (in value) signifies as much as (*Illud quod interest*) with the Civilians. For example, if a man buy land of another with warrantie, which land a third person afterward by suite of law recovereth against mee, I have my remedie against him that sold it mee, to recover in value, that is, to recover so much in money as the land is worth, or so much other land by way of exchange. *Fitzb. nat. br. fol. 134. K.* To recover a warranty. *Oldnat. br. fol. 146.* is to prove by judgement that a man was his warrant against all men for such a thing.

Recto, is a writ called in English, a writ of Right, which is of

so high a nature, that whereas other writs in reall actions, be onely to recover the possession of the land, or tenements in question, which have beeene lost by our auncesters, or our selves, this aymeth to recover both the seisin, which some of our Auncesters, or wee had, and also the propertie of the thing, whereof our Auncester died not seised, as of fee: and whereby are pleaded, and tryed both the rights together, *viz.* as well of possession, as propertie. In so much as if a man once lose his cause upon this writ, either by Judgement, by Assise, or battell, he is without all remedie, and shall be excluded (per exceptionem Rei judicatae) *Braeton lib. 5. tract. 1. cap. 1. & seqq.* where you may reade your fill of this writ.

It is divided into two species : *Rectum patens*, a writ of right patent, and *Rectum clausum*, a writ of right close. This the Civilians call *Judicium petitorum*. The writ of right patent is so called, because it is sent open, and is in nature the highest writ of all other, lying always for him that hath fee simple in the lands, or tenements viewed for, and not for any other. And when it lieth for him that challengeth fee simple, or in what cases. See *Fitzb. nat. br. fol. pri. C.* whom see also fol. 6. of a speci-

speciall writ of right in London, otherwise called a writ of right according to the custome of London. This writ also is called *Breve magnum de Recta Register originall*, fol. 9. A.B. and *Fleta lib. 5. cap. 32. sect. 12.*

A writ of right close, is a writ directed to a Lord of ancient Demesne, and lieth for those which hold their lands and tenements by charter in fee simple, or in fee tail, or for termes of life, or in dower, if they be ejected out of such lands, &c. or disseised. In this case a man or his heire may siew out this writ of Right close directed to the Lord of the ancient Demesne, commanding him to do him right, &c. in his court. This is also called a small writ of right. *Breve parvum, Register originall. fol. 9. a. b. and Briton, cap. 120. in fine.* Of this see *Fitzb.* likewise at large. *nat. br. fol. 11. & seqq.*

Yet note that the writ of right patent seemeth farther to be extended in use, then the originall invention served: for a writ of Right of Dower, which lyeth for the tenent in Dower, and onely for terme of life, is patent, as appeareth by *Fitzb. nat. br. fol. 7. C.* The like may be said of divers others that doe hereafter follow. Of these see also the table of the originall Register, verbo *Recto*. This writ is properly tryed in the

Lords Court betweene kinsmen, that claime by one title from their Auncester. But how it may be thence removed, and brought either to the Countie, or to the Kings court, see *Fleta. lib. 6. cap. 3, 4, & 5. Glanvile settmeth to make every writ,* whereby a man sieweth for any thing due unto him, a writ of right. *lib. 10. cap. 1. lib. 11. cap. 1. lib. 12. cap. 1.*

Recto de dote, is a writ of Right of Dower, which lyeth for a woman, that hath received part of her Dower, and purposeth to demaund the Remenant in the same Towne, against the heire, or his Gardian, if he be ward. Of this see more in the *Old nat. br. fol. 5. and Fitzb. fol. 7. E.* and the Register originall, fol. 3. and the new booke of Entries, verbo *Droyt*.

Recto de dote unde nihil habet, is a writ of right, which lyeth in case, where the husband having divers lands or tenements, hath assured no dower to his wife, and shee thereby is driven to siew for her thirds against the heire or his Gardian, *Old nat. br. folio 6. Register originall, folio 170.*

Recto de rationabili parte, is a writ that lieth alway, betweene privies of bloud, as brothers in Gavel-kind, or sisters; or other Coparceners, as Nephewes, or Nee-

Neeces, and for land in Fee simple. For example, if a man lease his land for tearme of life, and afterward dyeth, leaving issue, two daughters, and after that the tenant for terme of life likewise dieth: the one sister entering upon all the land, and so deforcing the other; the sister so deforced, shall have this writ to recover part. *Fitz.nat.br.fol. 9. Register orig. fol. 3.*

Recto quando Dominus remisit is a writ of right, which lyeth in case, where lands or tenements that be in the Seigneury of any Lord, are in demand by awrit of right. For if the Lord hold no court, or otherwise at the prayer of the Demandant, or Tenant, shall send to the court of the King his writ, to put the cause thither for that time (saving to him another time the right of his Seigneury) then this writ issueth out for the other party, and hath this name from the words therein comprised, being the true occasion thereof. This writ is close, and must be returned before the Justices of the common Banck. *Old nat. br. fol. 16. Register original. fol. 4.*

Recto de Advocacia Ecclesie, is a writ of right, lying where a man hath right of *Advouzen*, & the Parson of the Church dying, a stranger presenteth his Clerke to the Church, and hee not having

moved his action of *Quare impedit*, nor *darrein presentment* within five moneths, but suffered the stranger to usurpe vpon him. And this writ he only may have, that claimeth the *Aduowsen*, to himselfe and to his heires in fee. And as it lieth for the whole advouzen: so it lieth also for the halfe, the third, the fourth part. *Old nat. br. fol. 24. Register originall. fol. 29.*

Recto de custodia terre & hereditatis, is a writ that lieth for him, whose Tenant holding of him in Chivalry, dieth in his nonage, against a stranger, that entreth upon the land, and taketh the body of the heire. The forme, and farder use whereof see in *Fitz.nat.br. fol. 139.* and the *Register originall. fol. 161.*

Recto sur disclaimer, is a writ that lyeth, where the Lord in the Kings court, sc. in the common plees, doth avow upon his Tenant, and the Tenant disclaimeth to hould of him, upon the disclaimer he shall have this writ: and if the Lord averre, and prove that the land is holden of him, he shall recover the land for ever. *Old nat. br. fol. 150.* which is grounded upon the statute, *Westm. 2. ca. 2. anno 13. Ed.pri.* which statute beginneth. *Quia Domini feudorum, &c.*

Rector, is both Latine, and English, signifying a Governour. In

the common law rector ecclesie parochialis, is he that hath the charge, or cure of a parish Church: qui tantum jus in ecclesia parochiali habet, quantum prelatus in ecclesia collegiata. *sc. ult. De locat; & Conduct. in glo. verbo expelli potuerint.* In our common law, I heare that it is lately over-ruled, that rector ecclesie parochialis is hee, that hath a personage, where there is a vicarage, endowed: and hee that hath a personage without a vicarage, is called persons. But this distinction seemeth to be new and subtile *preter rationem.* I am sure Bracton useth it otherwise, lib. 4. tratt. 5. ca. pri. in these words. *Et sciendum quod rectoriibus ecclesiarum parochialium competit Amissa, qui instituti sunt per Episcopos, & Ordinarios ut persone.* Where it is plaine, that rector and persona bee confounded. Mark also these words there following: *Item dici possunt rectores Canonici de ecclesiis prebendas. Item dici possunt rectores, vel quasi, Abbates, Priors & alij, qui habent ecclesias ad proprios usus.*

Rectus in curia, is he that standeth at the barre, and haue no man to object any offence against him. *Smith de repub. Angl. li. 2. c. 3.* see *a. 6. R. 2. sta. 1. c. 11.*

Redendum, is used many times substantively for the clause in a

lease, &c. Whereby the rent is reserved to the leasour. *Coke lib. 2. Lord Cromwells case. fol. 72. b.*

Rediscesim (*rediscessimus*) is a disseisin made by him, that once before was found, and adjudged to have disseised the same man of his lands, or tenements. For the which there lyeth a speciall writ, called a writ of *rediscesim.* *Old nat. br. fol. 106. Fitz. nat. br. fol. 188.* See the new booke of Entries. verb. *Rediscesim.*

Rediscessima, is a writ lying for a *rediscesim.* *Reg. orig. f. 206, 207.*

Redacion, is a judicall confession, and acknowledgement that the land or thing in demand belongeth to the defendant, or at the least, not to himselfe. *a. 34. & 35. H.8. ca. 24. Perkins Dorser. 379. 380.*

Redneighbours, be those that buy cloth, which they know to bee stolen, and turne it into some other forme or fashion. *Briston. ca. 29. Cromptons Vicount. fol. 193. a.*

Reentry, commeth of the French (*rentrer*) i. rursus intrare, and signifieth in our common law, the resuming, or taking againe of possession, which wee had eark forgone. For example, if I make a lease, of land, or tenement, I do thereby forgoe the possession, and if I doe condition with the Leassee, that for non payment of the rent at the day it shall be lawfull for me to reenter, this

is as much as if I conditioned to take againe the lands, &c. into mine owne hands, and to recover the possession by mine owne fact without the assistance of Judge or proces.

Reere county. See Rier Ceyn-
ye.

Rextent, is a second extente made upon lands, or tenements, upon complaint made, that the former extente was partially performed. *Brooke, titulo. Extent. fol. 313.*

Regard(regardum) is borrowed of the French Regard, or Regardure. i. aspectus, conspectus, respectus.) and though it have a generall signification of any care or diligence: yet it hath also a speciaff acceptance, and therein is used onely in matters of the Forest: and there two waies: one for the office of the Regarder, the other for the compasse of ground belonging to the Regarders office or charge. *Cromptons Jurisd. fol. 175. 199.* Touching the former, thus saith *M. Manwood, parte pri. of his Forest laws. pag. 198.* The Eire, general sessions of the Forest, or Justices seat, is to bee holden, and kept every third yeere: and of necessity before that any such sessions or Justices seat can bee holden, the Regarders of the Forest must make their Regard. And this making of the Regard

must be done by the Kings writ. And the Regard is (as hee afterward there saith) to goe through the whole Forest, and every Bayliwick of the same, to see and enquire of the trespasses of the Forest: which hee compriseth in these q. viz. *ad videndum, ad inquirendum, ad imbrevidandum, ad certificandum.* Of every of which branches you may reade there his exposition.

Touching the second signification, the compasse of the Regarders charge is the whole Forest, that is, all that ground, which is parcell of the Forest. For there may be Woods within the limits of the Forest, that bee no parcell thereof, and those be without the Regard, as the same Author plainly declareth, parte pri. pag. 194. and againe parte 2. cap. 7. nu. 4 where bee sheweth the difference betwene these words: (Infra regardum) or (Rewardum) & infra Forestam.

Regarder (Regardator) commeth of the French (Regardeur) id est, Spectator) and signifieth an officer of the Forest. *Cromptons Jurisd. fol. 153.* where it is thus defined. A Regarder is an officer of the Forest, appointed to survew all other Officers. Hee saith there also, that this Officer was ordeined in the beginning of

King Henry the seconds dayes. M. Maxwell in his first part of *Forest Laws.* pag. 188, thus defineth him; A Regarder is an officer of the Kings Forest, that is sworne to make the Regard of the Forest, as the same hath beeene used to bee made in anciencyt time. An i also to view and inquire of all offences of the Forrest, as well of vert as of venison, and of all concealements of any offences or defaults of the Foresters, and of all other officers of the Kings Forest, concerning the execution of their offices. Hee saith there also, that a Regarder may be made either by the King's letters patents, or by any one of the Kings Justices of the Forrest at his discretion in the generall Eyre, or at such time, as the Regard is to be made, by vertue of the Kings writ, directed to the Shyreeve of the County for that purpose. The forme of which writ hee there setteth downe.

After that, pag. 192. hee setteth downe his Oath in these words. *Ton shall truly serve our Soveraigne Lord the King in the office of a Regarder in the Forest of Waltham. Ton shall make the Regard of the same in such manner, as the same hath beeene accustomed to bee made. Ton shall raunge through the whole Forest, and through every*

Baylywick of the same, as the Foresters there shal leade you to view the said Forest. And if the foresters will not, or doe not know how to leade you, to make the regard or raunge of the Forrest, that they will conceale from you any thing that is forfited to the King; you, your selvers shall not let for any thing: but you shall see the same forfiture, and cause the same to be imrolded in your roll. You shall inquire of all wastes, pourprestures, and Assarts of the Forest, and also of concealements of any offence, or trespassse in the Forest: and all these things you shall to the uttermost of your power doe; So help you G.O.D. Then you may reade farder the particulars of his office. eadem pag. 195. And pag. 207. he saith, that their presentments must be upon their view, and so recorded, and that the Regarders of themselves have power to heare and determine the fine, or amerciament for expeditating of dogges. See Regard.

Regio assensu, is a writ whereby the King giveth his Royall assent to the election of a Bishop or Abbot. Register orig. fol. 294.b.

Registrie (Registrum) commeth of the French (Registre. i. liber, librarium, codex ratiocinarius, ephemeras, commentarius) it signifieth

fierth with us the office , or books, or rolls, wherein are recorded the proceedings of the Chauncerie , or any spirituall Court. The writer and the keeper whereof is called the Register, in Latine , *Registrarius*. Register is also the name of a booke , wherein are expressed all the forms of writs used at the common law , called the Register of the Chancery. Anno 13. Ed. pri. cap. 24. Some* say it is termed *Registrum*, quasi *Regestum*. *Pratam.*

Regritor (*regrator*) commeth of the French (*regratter* i. *desquamare*,) *Regratter quelque vielle robe & la faire neuue*) is to scour or furbish an old garment and to make it new againe. Also (*regisseur*) signifieth as much as (*Mango*) in Latine : which kind of men sold children, and to sell them the better , *mentendi coloris artem optimè callebant*. *Martialis & Plinius*. This word in our common law, did anciently signifie such as bough by the great, and sold by retayle. anno 27. Ed. 3. stat. prim. cap. 3. but now it signifieth him, that buyeth and selleth any wares, or victuals in the same market, or faire, or within five miles thereof. anno 5. Edw. 6. cap. 14. anno 5. Elizab. cap. 12. anno 13. Eliza. cap. 25. See *Forestallers* and *Engrossers*.

Rebabere facias seismam quando Vice comes liberavit seismam de maiore parte, quam deberet, is a writ Judiciall. *Register Judicial*. fol. 13. 51. There is another writ of this name and nature. *evdem*, fol. 54.

Rejoyrader (*rejunctio*) signifieth in our Common Law, as much as *Duplicatio* with the Civilians , that is , an exception to a replication. For the first answere of the Defendant to the Plaintifffes bill , is called an exception: the Plaintifffes answere to that , is called a Replication : and the Defendants to that , Duplication in the Civiill Law , and a Rejoynder with us , especially in Chancery. *West. parte*. 2. symb. titulo *Chancery* sect. 56. where he citeth these words out of *Spigelius*. *Est autem rejunctio seu duplicatio, vel allegatio, que datur reo ad infirmandum replicationem actoris, & confirmandum exceptionem Rei.*

Relation (*relatio*) *idem quod fictio juris*, to make a nullity of a thing from the beginning (for a certaine intent) which had essence, *Cook lib. 3 Butler & Baker. fol. 28. b.* which in plainer termes may be thus expounded. Relation is a fiction of the law, whereby something is (for a speciall purpose) imagined never to have beeene , which in

truth was. Read the rest.

Release (*Relaxatio*) commeth of the French (*Relaxebe i. cessione, relaxatio, laxamentum*) and in our common law is thus defined: A release is an Instrument whereby estates, rights, titles, entries, actions, and other things be sometime extinguished, sometime transferred, sometime abridged, and sometime enlarged *Westm. pars prim. symbol. lib. 2. sect. 509.* And there is a Release in fact, and a release in Law. *Perkins Grauntis 71.* A release in fact seemeth to be that, which the very words expressly declare. A Release in law is that, which doth acquire by way of consequent, or intendment of Law. An example whereof you have in *Perkins ubi supra.* Of these, how they be availeable, and how not, see *Littleton at large. li. 3. ca. 8. fol. 94.* of divers sorts of these Releases see the new booke of Entries. *verbo Release.*

Relieve (*relevium*) commeth of the French *relever.* i. *relevare*, and signifieth in our common Law, a certaine summe of money, that the tenent holding by Knights service, grand serjeantie, or other tenure, for the which homage or regall service is due, or by soccage, for the which no homage is due, and being at full age at the death of

his auncestour, doth pay unto his Lord at his entrance. *Batton lib. 2. cap. 38.* giveth a reason why it is called a Relieve. viz. *quia hereditas, que iacens fuit per antecessoris decessum, relevatur in manus heredum, & propter factam revelationem, facienda erit ab herede quedam prestatio, quae dictetur Relevium.* Of this you may read *Britton. c. 69.* in a manner to the same effect. Of this also speakes the *Grand Cusummary of Normandy, cap. 34.* to this effect: It is to be knowne, that the Lord of the fee ought to have relieve of the Lands, which be held of him by homage, when those die, of whom hee had homage. And that this is not onely proper to us in Eng. or *Normandy*, appeareth by *Hotoman* in his Commentaries, *de verbis feud. verbo Relevium*, who there defineth it thus: *Relevium est honorarium, quod novus vasallus patrono intritus causa largitur, quasi morte vasalli alterius, vel alio quo casis feudum occiderit: quod jam à novo sublevetur:* and farther speaketh of it, that which is worth the reading, and contains great knowledge of antiquity. See the like definition in *Morante singularibus. verbo Relevium.* For the quantitie of this relieve, see the *Great charter, cap. 2.* in these words: If any of our Earles or Barons, or any other our

our tenents, which hold of us in chiefe by knights service, dyc, and at the time of his death his heire is of full age, and oweth to us reliefe, hee shall have inheritance by the old Reliese: that is to say, the heire, or heires of an Earle for one whole Earldome one hundred pound: the heire or heires of a Baron for one whole Barony, one hundred markes: the heire or heires of a Knight, for one whole Knights fee, one hundred shillings at the most. And hee that hath lesse, shall give lesse, according to the old custome of the fees. Read also *Glanvile lib. 9. cap. 4. fol. 68.* who saith, that in his dayes the Reliese of a Barony was not certaine. The heire in francke soccage, when hee commeth to his full age, after the death of his auncestre, shall double the rent that hee was wont to pay to the Lord, and that shall bee in place of reliefe. *old. nat. br. fol. 94.* Somewhat more hereof you may reade in *anno 28. Ed. prim. statut. prim.* and *Kitchin fol. 145. ca. Relief,* and *Glanvile, lib. 7. cap. 9.* The Feudists also write of this at large. Among others *Vincentius de Franchis de cas.* 121. saith, that *Relevij solutio est quadam extrinseca prestatio a consuetudine introducta, que non iwest fendo. quodq; solvitur pro confirmatio-*

ne, seu renovatione investiture & possessionis. See *Hariot.* This *Leo the Emperour Novella 13. calleth ei securitatem.* By the ancient civile law it is termed *introitus, l. penult. sect. Alumno. π de legatis.* *Skele de verb.* signifieth, that Reliese is a French word, from the Latine *relevare*, which is to relieve or take up that which is fallen. For it is given by the tenent, or vassal being of perfect age, after the expiring of the wardship to his Lord, of whom he holds his land by Knights service, that is, by ward and reliefe; and by payment thereof he relieves, and (as it were) raiseth up againe his lands, after they were fallen downe into his superiors hands by reason of wardship, &c.

Remainder (remanentia) signifieth in our common law, a power or hope to enjoy lands, tenuements, or rents after the estate of another expired. For example, a man may let land to one for terme of his life, and the Remainder to another for terme of his life. *Littleton, cap. Atturment, fol. 113.* And this Remainder may be either for a certaine terme, or in fee simple, or fee taile, as might be proved by many places in the law writers. But in stead of the rest, take *Brook, titulo Done & Remainder, fo. 245. Glanvile. li. 7. ca. pri. in fine* hath these words:

Notan.

Notandum quod nec Episcopus, nec Abbas, quis earum Baronie sunt, de eleemosina Dom. Regis & antecessorum ejus, non possunt de Dominicis suis aliquam partem dare ad remanentiam sine assensu & confirmatione Domini Regis. Where it appears that *Dare ad remanentiam*, is to give away for ever. To the same effect doth he use it, *cap. 9. ejusdem libri* in these words, speaking of the Lords of Manors during the minoritie of their wards. *Nihil tamen de hereditate, de jure alienare possunt ad remanentiam.* In the like sort doth *Bracon* use it, *lib. 2. cap. 23. in fine* and also *lib. 4. tract. 2. c. 4. nn. 4.* See the new book of entries, *verbo Remainder.*

Remembrancers of the Exchequer (*Rememoratores*) be three officers or Clerks, one called the Kings Remembrancer, *anno 35. El. cap. 5.* The other the Lord Treasurers Remembrancer, upon whose charge it seemeth to lye, that they put all Justices of that court, as the Lord Treasurer and the rest, in remembrance of such things as are to be called on, and dealt in for the Princes behoofe. The third is called the Remembrancer of the first-fruits. Of these you may reade something *anno quinto Rich. 2. stat. pri. cap. 14. & 15* to the effect above specified. These *anno 37. Ed. 3. cap 4.* be called Clerks of

the Remembrance. It seemeth that the name of this officer is borrowed from the Civilians, who have their *Memorials*, qui sunt *notarii Cancellarie in regno subjecti officio Questoris. Lucas de pennae. C. lib. 10. tit. 12. nn. 7.* The Kings Remembrancer entreteth in his office all recognisances, taken before the Barons for any the kings debts, for apparences or for observing of orders. He takes all bonds for any of the kings debts, or for appearance, or for observing of orders, and maketh Proces upon them for the breach of them. He writeht Proces against the Collectors of customes, and subsidies, and fifteenths, for their accounts. All informations upon penall Statutes are entred in his office. And all matters upon english-Bills, in the Exchequer-chamber are remaining in his office. He maketh the bills of compositions upon penal lawes : taketh the italments of debts : maketh a record of a certificate delivered unto him by the Clerke of the Starre-chamber of the fines there set, and sendeth them to the Pipe. He hath delivered unto his office all maner of indentures, fines, and other eviednces whatsoever, that concern the assuring of any lands to the Crown. He yeerly in *crafino animarum* readeth in open court the statute for the elections

elections of Shyreeves, and giveth those that chuse them their oath: hee readeth in open Court the oath of all the Officers of the Court, when they are admitted.

The Treasurers remembrancer maketh processe against all Shyreeves, Escheatours, Receivers, and Bayliffes for their accompts. Hee maketh processe of (*Fiers facias*) and Extent for any debts due to the King, either in the Pipe, or with the Auditors. Hee maketh processe for all such Revenew as is due to the King by reason of his Tenures. Hee maketh a Record, whereby it appeareth whether Shyreeves and other accountants pay their profers due at Easter and Michaelmas. He maketh another Record, whereby it appeareth, whether Shyreeves and other Accountants keepe their dayes of prefision. All Extreats of Fines, Issues, and Amerciaments set in any Courts of *Westminster*, or at the Assises, or Sessions, are certified into his Office, and are by him delivered to the Clerke of Extreats to write proces upon them. Hee hath also brought into his Office all the accompts of Customers, Controllers, and other accomptants to make thereof an entry of Record.

The Remembrancer of the first fruities, taketh all composi-

tions for first Fruites and Tenthes, and maketh processe against such as pay not the same.

Remitter, commeth of the French (*remettre*. i. *restituere*, *reponere*) and signifieth in our common Law, a restitution of one that hath two titles to Lands or Tenements, and is seised of them by his latter Title, unto his title that is more ancient; in case where the latter is defective. *Fitzherbert natura brev. fol. 149. F. Dyer folio 68. num. 22.* This in what case it may be graunted to any man, see in *Brooke titilo Remitter*: and the Termes of Law. The Doctor and Student, of this matter hath these words: if land descend to him that hath right to that Land before, hee shall be remitted to his better title, if hee will. *Cap. nono fol. 19. b.* See the new Booke of Entries: *verbo Remitter*.

Render, commeth of the French (*Rendre*. i. *reddere*, *retribuere*, *restituere*) and signifieth in our Common Law, the selfe-same thing. For example, this word is used in levying of a Fine. For a Fine is either single, by which nothing is graunted, or rendred backe againe by the Cognizee, to the Cognizour: or double, which containeth a grant, or render backe againe of some Rent common,

or other thing out of the Land it selfe to the Cognisor, &c. *West.* parte 2. symbol. titulo *Fines.* Sect. 21. & 30. F. Also there bee certaine things in a Manor that lye in *Prender*, that is, which may bee taken by the Lord or his Officer, when they chance, without any offer made by the tenant, as the Ward of the body of the Heire, and of the Land, Escheats, &c. and certaine that lye in *Render*, that is, must be delivered or answered by the Tenant, as Rents, Relieves, Heriots, and other services. *Idem eadem Sect. 126. C.* Also some service consisteth in feinance, some in Render. *Perkins Reservations,* 696.

Rent, (*reditus*) commeth of the French (*Rent.* i. *vestigall,* *pensitatio annua*), and signifieth with us, a summe of money or other consideration issuing yearely out of Land or Tenements. *Plowden, casse Browning, fol. 132. b. & fol. 138. a. 141. b.* There be three sorts of Rents observed by our Common Lawyers: that is, Rent service, Rent charge, and Rent seck. Rent service is, where a man holdeth his Land of his Lord by Fealty, and certain Rent, or by Fealty, Service, and certaine Rents. *Littleton lib. 2. cap. 12. fol. 44.* or that which a man, making a lease to another for terme of yeeres, reserveth yearely to bee paid him for the

same. Termes of Law. *verbo Rents*, who giveth this reason thereof, because it is in his libertie, whether hee will distreine, or bring an action of Debt. A Rent charge is that which a man making over an estate of his Land, or tenements to another, by deed indented, either in fee, or fee taile, or lease for terme of life, reserveth to himselfe by the said Indenture a summe of Monie yearely to bee paid unto him with clause of distress; or to him and his heires. See *Littleton ubi supra.* A Rent seck otherwife a dry Rent, is that, which a man making over an Estate of his Land or Tenement, by Deede indented, reserveth yearely to bee paid him without clause of distress mentioned in the Indenture. *Littleton ubi supra.* and Termes of the Law. *verbo Rents.* See the new Expositor of Law Termes: See *Plowden, casse Browning. fol. 132. b.* See the differences betweene a Rent and an Annuitie. *Doctor and Student. cap. 30. Dialog. primo.*

Reparatione facienda, is a writ, which lyeth in divers cases, whereof one is, where three bee Tenants in common, or joyned tenents, or *pro indiviso*, of a Mill, or house which is fallen into decay, and the one being willing to repaire it, the other two will

will not. In this case, the party willing shall have this writ against the other two. *Fitz. nat. bre. fol. 127.* where read at large the forme and many uses of this writ, as also in the *Regi. orig. fol. 153. b.*

Repeale, commeth of the French (*Rappel. i. Recovatio*) and signifieth in our common law even the same; as the Repeale of a statute, *Rastall titulo Repeale. Brooke useth Repellance in this signification, titulo Repellance.*

Repleader (*Replacitare*) isto pleade againe, that which was once pleaded before. *Rastall, titulo Repleader.* See the new booke of Entries, *verbo Repleader.*

Replegiare. See *Replevie.* See *Second deliverance.*

Replevie (*Plevina*) is the bringing of the writ called *Replegiari facias*, by him that hath his cattell or other goods distreined by another for any cause, and putting in surety to the Shyreeve, that upon the delivery of the thing distreined, hee will persiew the action against him that distreined. *Termes of law.* See *Replegiare.* It is used also for the bayling of a man. *pl. cor. fol. 72. 73. 74 &c. West. pri. cap. D1. & cap. 15. anno 3. Ed. 1.*

Replegiare de averie, is a writ brought by one, whose cattell bee distreined or put in pound upon any cause by another, upon surety given to the Shyreeve

to persiew the action in law *anno 7. H.8. cap. 4. Fitz. nat. br. fol. 68.* See the Register originall, of divers sorts of this writ called *Replegiare*, in the Table, *verbo eodem.* See also the Register Judiciall, fol. 58. & 70. See also the new booke of Entries, *verbo Replevin.* See *Dyer fol. 173. m. 14.*

Replevish (*Replegiare*) is to let one to mainprise upon surety. *anno 3. Ed. 1. cap. 11.*

Replication (*replicatio*) is an exception of the second degree made by the plaintiff upon the first answer of the Defendant, *West. parte 2. symbol. titulo Chancery. sect. 55. & West. 2. anno 13. Ed. pri. cap. 36.* This is borrowed from the Civilians, *De replicationibus, li. 4. Institutio. titulo. 14.*

Report (*Reportus*) is in our common law a relation, or repetition of a case debated, or argued; which is sometime made to the Court, upon reference from the Court to the Reporter, sometime to the world voluntarily, as *Phoydens reports*, and such like.

Reposition of the Forest, was an act wherby certain forest grounds being made purlieu upon view, were by a second view laid to the Forest againe. *Manwood, parte pri. pag. 178.*

Reprisels, (*Reprisalia*) are all one in the common and civill law. *Reprisalia est potestas pignorandi contra quemlibet de terra debiti*

toris data creditor i pro injuriis & damnis acceptis. Vocabularius utriusque juris. This among the auncient Romanes was called (*Clarigatio*) of the verbe (*Clarigo. i. res clare repeto*) It is called in the Statute anno 27. Ed. 3. stat. 2. cap. 17. *Law of Marque*, of the German word *March*; i. *terminus, limes*. And the reason may bee, because one destitute of Justice in another territory, redresseth himselfe by the goods belonging to men of that territorie, taken within his owne bounds.

Requests (Supplicum libelli, Curia Requisitionum) is a Court of the same nature with the Chauncerie, redressing by equitie the wrongs that poore men doe suffer at their hand, whose might they are not able to withstand either in Law or otherwise. It tooke beginning as some men thinke, by commission from King Henry the 8. before which time the Masters of Requests had no warrant of ordinary Jurisdiction, but travailed between the Prince and Petitioners, by direction from the mouth of the King. *Guins Preface to his readings.* But see *Court of Requests.*

Rescays (Receptio) seemeth to be an admission of a third person to pleade his right in a cause formerly commenced,

betweene other two. See the new booke of *Entries. verbo Rescayt. v. Aide prior.* The Civilians call this *admissionem tertii pro suo interesse.* Of this you have one example in the Termes of Lawe, viz. if Tenant for terme of life, or Tenant for terme of yeeres bring an action: hee in the reversion commeth in, and prayeth to bee received to defend the land, and to plead with the Demandant. Many more you may have in *Brooke, titulo, Rescaye. fol. 205.* See *Perkins Dover. 448.* Receipt is also applyed to an admittance of plee, though the controversie bee but betweene two onely. *Brooke estoppel. in many places.*

Rescayt of homage, is a relative to doing homage, for as the Tenant, who oweth homage, doth it at his admission to the land: so the Lord receiveth it. *Kitchin fol. 148. See Homage.*

Rescom (Rescussus) commeth of the French (*Rescourre se Rescourre du danger. i. affirere se ab injuria*) It signifieth in our common Law a resistance against a lawfull authoritie: as for example, if a Baylife, or other Officer upon a writ doe arrest a man, and another (one or more) by violence doe take him away, or procure his escape: this act is called, a *Rescuse. Cassaneus in his booke de consuetud. Burg. hath the*

the same word coupled with (*resistentia*) fol. 294. whereby it appeareth, that other nations doe use this word in the same signification that we doe, or the very like. It is also used for a writ, which lyeth for this act called in our Lawyers Latine (*Breve de rescusse*) whereof you may see both the forme and use in *Fitz. nat. bre.* fol. 101. and the *Register originall.* fol. 125. See the new booke of *Entries. verbo rescom.* This *rescom*, in some cases is treason, and in some felony. *Crompton. Justice* fol. 54. b.

Reseiseir (*rescire*) is a taking again of lands into the Kings hands, whereof a generall livery, or *ouster le main* was formerly missued by any person or persons, and not according to forme and order of law. Of this see *Statuſ. preroga.* 26. where it is handled at large. See *resumption.*

Resiance (*resiantia*) seemeth to come of the French (*rassoir*, see *Rassoir. i. residere*) and signifieth a mans aboad or continuance in a place. *Old nat. br. fol. 85.* whence also commeth the participle (*resianz*) that is, continually dwelling, or abiding in a place. *Kitchin. fol. 33.* It is all one in truth with *Residence*, but that custome of speech tyeth that onely to persons ecclesiasticall.

Reservation, signifieth that rent or service which the graunter in

any graunt tyeth the grauntee to performe unto him, or them, or the Lord *Paramonte*. *Perkins reservations. per totum.*

Residence (*residentia*) commeth of the Latine (*residere*) and is peculiarly used both in the Canon and Common Lawe, for the continuance or aboade of a Parson or Vicar upon his benefice. The default whereof (except the partie bee qualified, and dispented with) is the losse of tenne pounds for every moneth, *anno 28. Henr. 8. cap. 13.*

Resignation (*resignatio*) is used particularly for the giving up of a Benefice into the hands of the Ordinarie, otherwise called of the Canonists (*renunciatio.*) And though it signifie all one in nature with the word (*Surrender*) yet it is by use more restrained to the yeelding up of a spirituall living, into the hands of the Ordinarie, and *Surrender* to the giving up of temporall Lands into the hands of the Lord. And a resignation may now bee made into the hands of the King, as well as of the Diocesan, because hee hath *supremam autoritatem Ecclesiasticam*, as the Pope had in time past. *Plowden. casu Grendon. fol. 498.*

Report, is a word used properly in a writ of ayle, or coulēnage

nage, as descent is in a writ of right.
Ingham.

Respectu computi Vice-comitis habendo, is a writ for the respiteing of a Shyreeves accompt upon just occasion, directed to the Treasurer and Barons of the Exchequer. *Register fol. 139. & 279.*

Respight of homage, (*respectus homagii*) is the forbearing of homage, which ought first of all to bee performed by the tenant, that holdeth by homage. Which respight may bee occasioned upon divers good reasons: but it hath the most frequent use in such as hold by Knights service *in capite*: who because the Prince cannot bee at leisure to take their homage, doe pay into the Exchequer, at certaine times in the yeere, some small summe of money to bee respighted, untill the Prince may bee at leisure to take it in person.

Responsions (*responsiones*) seemes to be a word used properly and especially by the Knights of *S. John of Jerusalem*, for certain accompts made unto them by such as occupied their lands or stockes. *anno 32. H.8. cap. 24.*

Responsalis, is hee that commeth for another at the day assigned for his appearance in Court, *Bracton*. *Fleta* seemeth to make a difference betweene

attursum, effoniatorem & responsalem, *lib. 6. cap. 11. §. Officium*, as if *effoniator* came onely to alledge, the cause of the parties absence, be hee the demandant or tenant, and *responsalis* came for the tenant not onely to excuse his absence, but also to signifie what tryall hee meant to undergoe, *viz.* the combate or the Countrie. *lib. 6. cap. 11. §. Si autem*. A man in auncient time could not appoint an Atturney for him, without warrant from the King. *Fleta, codem cap. 13. in fine*. See *Attorney*. This word is used in the Canon Law, *Et significat procuratorem vel eum qui absentem excusat. cap. Cum olim propter. extra de re script.*

Restitution (*restitutio*) is a yeilding up againe of any thing unlawfully taken from another. It is used in the common Law, most notoriously for the setting him in possession of lands or tenements, that hath beene unlawfully disseised of them, which when it is to be done, and when not, see *Cromptons Justice of peace. fol. 144. b. &c. usque 149.*

Restitutio extracti ab Ecclesia, is a Writ to restore a man to the Church, which he had recovered for his sanctuary being suspected of felonie, *Register orig. fol. 69. a.*

Restitutio temporalium, is a Writ that lyeth in case, where a man

man being elected, and confirmed Bishop of any Diocese, and hath the Princes Royall assent thereunto, for the recovery of the Temporalities, or Baronie of the said Bishopricke, with the appurtenances. And it is directed from the King to the Escheatour of the County, the forme whereof, you have in the *Regist. orig.* fol. 294. and in *Fitzb. nat. bre.* fol. 169. Where you may reade also, that it lieth for those Abbots and Priors, newly elested and confirmed, that were of the Kings foundation.

Resummons (*resummonitio*) is compounded twice, that is, of *re*, *sum*, and *Monto*: and signifieth a second summons, and calling of a man to answer an action, where the first summons is defeated by any occasion, as the death of the partie, or such like, *Brooke, titu.* See *Resummons*, fol. 214. See of these fourre sorts, according to the fourre divers cases in the Table of the *Register Judiciall*, fol. 1. See alio the new booke of Entries, *verbo*, *Reattachment*, & *Resummons*.

Resumption (*resumptio*) is particularly used for the taking againe into the Kings hands, such land or tenements, as before upon false suggestion, or other errour, hee had delivered to the heire, or granted by Letters Patents to any man, *Brooke, titu*

Repealance, & Resumption, fo. 298. Thus it is applyed, anno 31. H. 6. cap. 7. See *Reseifer*.

Retainer, commeth of the French (*retenir*. i. *detinere*, *retinere*) it signifieth in the common Law, a servant not meniall nor familiar; that is, not continually dwelling in the house of his Lord or Master, but onely using, or bearing his name or Liverie. This Liverie was wont to consist of Hats (otherwise hoods) Badges, and other suits of one garment by the yeare, anno 1. R. 2. cap. 7. These were taken by great Lords, many times upon purpose of maintenance, and quarrels, and therefore they have beene justly, for the better freedome of Law, forbidden by many Statutes: as namely by anno 1. Rich. 2. cap. 7. upon paine of imprisonment, and grievous forfeiture to the King: and againe, anno 16. ejus. cap. 4. & anno 20. ejusdem, cap. 1. & 2. and anno prim. H. 4. cap. 7. by the which, the Lords offending herein, should make ransome at the Kings will, and any Knight or Esquire hereot duly attainted, should lose his said Liverie, and forfeit his fee for ever; and any Yeoman wearing the Livery of the King, or other Lord, should bee imprisoned, and make ransome at the Kings will, onely some few excepted in the said Statute: which statute

is furder confirmed, and explained, anno 2. H. 4. cap. 21. & anno 7. ejusd. cap. 14. & anno 13. ejusd. cap. 3. & anno 8. H. 6. cap. 4. And yet this offence was so deeply rooted, that Edward the fourth was driven to confirme the former statutes, and furder to extend the meaning of them, as appeareth by the statute made anno 8. Ed. 4. cap. 2. adding an especiall paine of five pounds to every man that giveth such Liverry, and as much to every one so retained, either by writing, oath, or promise, for every moneth. Yet is not this fault so well looked unto, but that there is need of more pregnant Lawes for the redresse thereof, or at the least better execution of those, that be already made. These be by the Feudists called (*affidati.*) *Sic enim dicuntur, qui in alicujus fidem & tutelam recepti sunt.* Neapol. constiu. lib. 3. titulo 7. And as our retainers are here forbidden: so are those (*affidati*) in other countries.

Retraxit, is an exception against one that formerly commenced an action, and withdrew it, or was non-suit before tryall. Brooke. titulo, *Departure in despight, & Retraxit.* fol. 216. See also the new booke of Entries: *verbo deperter & verbo retraxit.*

Returne (returna) commeth of the French (retour. i. redditio, rever-

sio, recursus) and in our common Law, hath two particular applications, as namely the returne of a Writ by Shyreeves, and Bayliffs, which is nothing but a certificate made to the Court, whereunto the Writ directeth him, of that which hee hath done, touching the serving of the same Writ. And this among the Civilians is called *Certificatorium*. Of returnes in this signification, speake the Statutes of Westm. 2. cap. 39. anno 13. Ed. prim. and *Tractatus contra Vice-comites & Clericos*, with divers other, collected by Rastall, *titulo Returne of Shyreeves*. So is the returne of an Office, *Statut. prerog. fol. 70.* a certificate into the Court, of that which is done by vertue of his Office: See the *Statutes of dayes in banke*; anno 51. H. 3. & anno 32. H. 8. cap. 21. And in this signification Hilary Terme is said to have fourre returnes. viz. *Octabis Hilarii, Quindena Hilarii, crastino Purificationis, Octabis Purificationis*: and Easter Terme to have 5. returnes, viz. *Quindena Pasche, Tres pasche, Mensa pasche, Quinq; pasche, & crastino Ascensionis*. And Trinity Terme 4. returnes. i. *Crastino Trinitatis, Octabis Trinitatis, Quindena Trinitatis, Tres Trinitatis*. And Michaelmas Terme 8. returnes. sc. *Octabis Michaelis, Quindena Michaelis, Tres Michaelis, Mensa Michaelis, Crastino*

stino animarum, Crastino Martini, Octabis Martini, Quindena Martini.

The other application of this word is in case of *Replevy*. For if a man distraigne cattell for rent, &c. And afterward justifie or avowe his act, that it be found lawfull, the cattell before delivered unto him that was distrained upon securitie given to follow the action, shall now bee returned to him, that strained them. *Brooke, titulo Returne d'auers & hommes, fol. 218.* you shall finde this word often used in *Fitzherb. nat.br.* as appeareth in the word *Returne* in his table: but in all those places it hath the one or the other of these two significations.

Returno babendo, is a writ, which lyeth for him that hath avowed a distress made of cattell, and proved his distress to bee lawfully taken for the returne of the cattell distrained unto him, which before were replevied by the party distrained, upon surety given to persiewe the action. *Terms of law, verbo Replevin.*

Returnum averiorum, is a writ Judiciall, granted to one impledied for taking the cattell of another, and unjust detaining of them *contra vadum & phugios*, and appearing upon summons is dismissed without day, by reason that the plaintife maketh de-

fault, and it lyeth for the returne of the cattell unto the Defendant, whereby hee was summond, or which were taken for the securitie of his appearance upon the summons. *Register Judicial. fol. 4. a.*

Returnum irreplegabile, is a writ judiciall sent out of the common plees to the Shyreeue, for the finall restitution or returne of cattell to the owner, unjustly taken by another as damage feisant, and so found by the jury before Justices of Assise in the County. For which see the *Regist. Judiciall fol. 27. a.b.*

Rene, alias Grene (Prefectus) is made of *Gerefa* the Saxon word for a Governoour. *Lamb. explica: of Saxon words, verbo Prefectus*, and that by rejecting the first syllable, which (hee saith) among the Saxons is usuall. It signifieth in our common law, the Bayiffe of a Fraunchis or maner, and especially in the West parts. Of this you may see *Kitchin, fol. 43.* See *Grene*. See *Shyrene*. See also of this word *M. Verstigan* in his restitution of decayed intelligence. cap. 10. speaking much to the same effect.

Revels, seemeth to be derived from the French word (*Reviller. i. excitari, vel experges fieri*) It signifieth with us sports of dauncing, masking, comedies, tragedies, and such like used in

made, whereof if you desire farther knowledge, reade *Gerards herball. lib. i. cap. 52.* This is mentioned among merchandize to bee garbled in the statute. *an. 1. Jaco. cap. 19.*

Roag (*Rogus*) seemeth to come of the French (*Rogu. i. arrogans*) It signifieth with us an idle sturdy begger, that wandring from place to place without pasport, after hee hath beene by Justices bestowed upon some certaine place of aboade, or offered to be bestowed, is condemned to bee so called, who for the first offence, is called a Roag of the first degree, and punished by whipping, and boring through the griffell of the right eare with a hot iron an inch in compas: and for the second offence, is called a Roag of the second degree, and put to death as a felon, if he be above 18. yeeres ould. See the statute *anno. 14. Eliz. cap. 5. & 18. ejusdem, cap. 3. & ann. 36. cap. 17.* If you will know who be Rogues, and to be punished as Rogues by law, Reade *Lamberds Eirenarcha.lib. 4. cap. 4.* See *Rout.*

Robberie (*Robaria*) commeth of the French (*Robbe. i. vestis*) and in our common lawe, a felonious taking away of another mans goods from his person or presence, against his will, putting him in feare, and of

purpose to steale the same goods *West. parte 2. symbol. titulo Indit- ments, sect. 60.* This is sometime called violent theft. *Idem, eodem.* which is felonie for two pence. *Kitchin. fol. 16. and 22. lib. Assis. 39.* *Robaria* is a word also used in other nations, as appeareth by the annotations upon *Mathæus de Af- flictis, descis. 82. num. 6. pag. 122.* See *Skene verbo Reif. libro de verbo.* significat. See *Cromp. Justice of peace. f. 30. b.*

Roberdsman, an. 5. Ed. 3. cap. 14. & anno 7. R. 2. cap. 5. M. Lamb. interpreteth them to be mighty theves. *Eirenarcha.lib. 2. cap. 6. pag. 190.*

Rodknights, alias Radknights, are certaine servitours, which hold their lands by serving their Lord on horse-back. *Braeton. lib. 2. cap. 36. num. 6.* faith of them, debent equitare cum Domino suo de manerio in manerism, vel cum Domini uxore. *Fleta lib. 3. ca. 14. §. Con- tinetur.*

Rodde (*Pertica*) is otherwise called a pearche, and is a measure of 16. foote and an halfe long, and in *Stafford-shire* 20. foote, to measure land with. See *Pearch.*

Rosety'e, alias Creast tyle, is that tyle which is made to lay upon the rudge of the house. *anno 17. Ed. 4. cap. 4.*

Rogation weeke (*dies rogatio- num*) is a time well knowne to all,

all, being otherwise called Gang-weekke. The reasoun why it is so termed, is because of the espe-
ciall devotion of Prayer and Fasting, then enjoyned by the Church to all men, for a preparative to the joyfull remembrance of Christ's glorious Ascension, and the Descent of the holy Ghost, in the forme of cloven Tongues shortly after. And in that respect the solemnization of carnall Matrimony is forbidden from the first day of the said week, untill Trinity Sunday. See *Advent.*

Roode of Land (*Roda terre*) is a certain quantitie of Land being the fourth part of an Acre. anno 5. *Eliz. cap. 5.* See *Perch.*

Rolle, alias, *Ronle* (*Rotulum*) commeth of the French (*rouler.* i. *valvere*, *pervolare*, *rotare*) whence also is the French (*Role ou Ronle.* i. *volumen*, *catalogus*, *codex*). It signifieth with us a shidle of Paper, or Parchment turned or wound up with the hand to the fashyon of a pipe. So is it used in *Statut. plees of the Crown*, fol. 1*f.* The Chequer Roll of the Kings house, out of the Statute anno. 3. *H. 7. cap. 13.* which signifieth nothing but the catalogue wherein the names of the Kings household Servants are set downe. And anno 5. *Rich. 2. cap. 14. stat. prim.* there is mention made of the great Rolle of

the Exchequer which seemeth otherwise to bee called the Pipe. The Roules is also a place deli-
nated, by *Edward. 3.* to the kee-
ping of the Rolles, or Records of
the Chancerie situate betweene
the two Temples in *London*,
Camden. Britan. pag. 321. the Ma-
ster whereof is the second man in
Chauncery, and in the absence of
the Lord Chauncelor, or Kee-
per, sitteth as Judge, being
commonly called the Master
of the Rolles. See *Master of the
Rolle.*

Romescot, is compounded of *Rome*, and *Scot*, as you would say, the tribute due to Rome : it is called by *Mathaeus Westmona-
stiensis, Consuetudo Apostolica*, à qua neque Rex, neque Archie-
piscopus, vel Episcopus, Abbas, vel
vel Prior, aut quilibet in regno im-
muniserat : and was first graunted by *Offa* a Saxon King. *Camden. Britan. pag. 306.* See *Peter pence*: and *Roger Hoveden parte poster. suorum annalium. fol. 344. a. in Henr. secundo.*

Roundlet, is a certaine measure of Wine, Oyle, &c. containing 8. gallons and a halfe, anno 1. *R. 3 cap. 13.*

Route (*routa*) is a French word signifying a company, or flocke : as (*vne grande route de
gents ou de serfs. i. grex hominum,
longa servorum series*) It signifieth in our Common Law, an al-
sebly

sembly of three persons or more, going on about forcibly to commit an unlawfull act, but yet doe it not, *Westm. parte 2. symb. titulo Indictments. sect. 65.* *O. M. Lambert* thus saith of it : A Rout is the same, which the *Germanes* yet call *Rot*, meaning a band or great company of men gathered together, and going about to execute, or executing indeede, any Riot or unlawfull act : and (saith more) it is said properly of the multitude that assembleth themselves in such disorderly sort, for their common quarrells. As if the inhabitants of a Towne-ship doe assemble to pull downe a hedge, or pale, to have their common, where they ought to have none, or to beat a man that hath done them some publicke offence or displeasure. But the Statute of 18. Ed. 3. stat. prim. cap. unico. which giveth Processe of outlawry against such as bring routs into the presence of the Justices, or in affray of the people, and the Statute of 2. Richard 2. cap. 6. that speaketh of riding in great routes to make entry into Lands, and to beate others, and to take their wives, &c. doe seeme to understand it more largely. And it is a route, whether they put their purpose in execution or no : if so bee, that they doe goe, ride, or move forward after their meeting. *Brook titulo, Riot. 4. & 5.* So

(as it seemeth) a Rout should bee a speciall kind of unlawfull assembly : and a Riot the disorderly fact committed generally by any unlawfull assembly. Howsoever it bee, two things are common both to Riot, Rout, and unlawfull assembly : the one, that three persons at the least bee gathered together : for so it is commonly taken at this day, as I have learned : the other, that they being together, doe breede disturbance of the peace, either by signification of speech, shew of Armour, turbulent gesture, or actuall & expresse violence : so that either the peaceable sort of men bee unquieted, and feared by the fact, or the lighter sort, and busie-bodies emboldned by the example. Thus farre *M. Lambert* in his *Eirenarcha, libro 2. cap. 5. &c.* where you may reade more worth the noting, though too long to be copied out. See *Riot*, and *Vn-lawfull assembly*. *Kitchin* giveth the same definition of a *Route*, fol. 2c.

Rowing of clothes. anno 27. H.8. cap. 13.

Royall assent (regius assensus) is that approbation which the King giveth to a thing formerly done by others : as to the election of a Bishop by Deane and Chapter. Which given, then he sendeth an especiall Writ to some per-

person for the taking of his fealty. The form of which Writ you may see in *Fitzb. nat. br. fol. 170. C.* And also to a Bill passed by both the houses of Parliament. *Crump頓 Jurisd. folio 8.* which assent being once given, the Bill is endorsed with these words : *Le Roy veult. i. It. pleaseth the King.* If hee refuse to agree unto it, then thus : *Le Roy avisera. i. the King will yet thinke of it.* See *Parliament.*

Royalties (*Regalia vel regalitatem*) be the rights of the King. *Intra regis. Hotoman in verbis feudalibus, verbo, Regum Fendista.* And so are they understood of us likewise, who otherwise call them the Kings Prerogative. See *Prerogative.* And some of these be such as the King may grant unto common persons, some so high, as may not bee separated from his owne Crowne *privative*, as the Civilians terme it, though *cumulativè* he may. See *Braeton. lib. 2. cap. 5.* These bee in some sort expressed in the first of *Samuel. cap. 8.* but these generalities bee specified more at large by those Lawyers that write of this point. Among whom I especially commend *Matherum de Afflictis* upon the Title of the *Fends.* *Que sunt regalia,* being the 33. title of the third Booke as some divide them, but according to others the 56. of

the second Booke : where bee named in the Text 25. specialties of Royalties. See also *Hotomans Commentaries in lib. 2. Fendor. cap. 56.*

Rouge croise. See Herald.

Rudge washed Kersey. i. made of fleece wooll washed only on the sheepe's back. anno 35. Eliz. cap. 10.

Sables. See Furre.

Sac. (Sacha vel Saccus) is a Royaltie or priviledge touching plee, and correction of trespasses of men within a Manor. *Rastal, titulo Exposition of words :* where he addeth this reason : because (saith he) *Sac* in English is (*Encheson*) in French : as to say, for sick sack, pur quel encheson. i. for what hurt. That which our Common Lawyers call (*encheson*) the true French man termeth (*Achouise. i. occasionem*) as (*Achouise fort grande, occasio ampla*) or else may encheson come of (*Encheoir. i. incidere*) which wee in English call an accident, or incident. But all this is farre enough from (*Sac*) and from the interpretation thereof, as it is a Libertie or Priviledge. *Braeton hath the word, as Stawxford noteth out of him, pl. cor. lib. pri. cap. 23.* but neither of them both doe particularly interpret it. *Braetons words be these, lib. 3.*

tract. 2. c. sp. 8. vel si sit aliquis qui de concessione Domini Regis talem habeat libertatem (sicut sock & sack, Tolnetum, Team, Infangtheſe, & Hufangheſe) qui inventus fuerit seſitus de aliquo latrocino, ſicut Hond'ihende & Backbērend, tales habent regalem potestatem: & unde qui tales libertates habent, habebunt prisonam fnam de talibus, quia poſſunt tales in Curia ſua judicare. Of the which matter hee speaketh also in lib. 2. cap. 24. nū. 2. & 3. and againe lib. 3. tract. 2. cap. 35. But in none of these places hee giveth any interpretation of the word. Saxon in his description of England defineth *Sack* to be a forfeiture, as doth Rastoll ubi *supra*. fol. 132. M. Camden in his Britan. pag. 415. speaking of Lincoln: hath theſe words: Edvardo Confefſore regnante, erant (ex censuali libro loquor) 1070. manſiones hōſpitala, & duodecim Lageman habentes ſocam & ſacam. To all theſe adde Braetton. lib. 2. ca. 5. where he writeth thus. Sunt & aliae res quaſi ſacræ, que perſonam Regis reſpiciunt, & aliquando tranſerri non poſſunt, niſi Iuſticia-riis Domini Regis, ſicut viſiſus Fran- ciplegii, placita de verito mannio, e- mendatio tranſeſſionis Aſſarum, Iudicium latrenum, ſicut de illis qui habent ſock & ſack & bujns- modi omnia, que pertinent ad pa- cem, & per conſequens ad Coronam. I am informed, that the word

(*sack*) in the Saxon tongue doth properly ſignifie ſo much as (*cauſa*) with the Latines: whence we in English have the word (*sake*) as (for whose ſake) M. Skene de verb. ſignif. verbo, *Sacke*, writeth thus. In ſome old bookeſ it is cal- led placitum & emenda de tranſeſſione hominum in Curia Noſtra. In the Lawes of King Edward ſet forth by Maſter Lamberd, fol. 132. it is written (*Sacha*) Sacha autem eſt, ſi quilibet aliquem na- minati de aliquo calumniatus fu- erit, & ille negaverit, foriſfactura probationis, vel negationis (ſi eve- nerit) ſua eſtit. Which may bee called the Amercement payed by him who denieth that thing, which is proved againſt him to be true, or affirmeth that thing, the contrary whereof is true. Thus far M. Skene. Fleta of this hath theſe words: *Sake* ſignificat acquie- tiam de ſecta ad Comitatum, & Hun- dredum. lib. 1. ca. 47. ¶ *Sake*. But by all theſe I find not any reaſon of the word, that is, why this liberty ſhould be ſo called, and therefore I muſt leave it to better Anti- quaries or Linguifts. See Roger Ho- veden parte poster. ſuorum annalium. fol. 345.

Sacchius cum brochis, ſeemeth to be a ſervice of finding a *Sacke* and a broach to the King by vertue of a Tenure, for the ufe of his Armie. Braet. lib. 2. c. 16. n. 6.

Sacke of Wooll (*saccus lane*) is a quan-

a quantitie of wooll, that containeth 26. stone, and a stone fourteen pounds, anno 14. Edw. 3. stat. 1. cap. 21. See Surphar.

Sacramento recipiendo, quod vidua Regis se non maritabit sine licentia Regis, is a Writ or commission to one for the taking of an oath of the Kings Widow, that shee shall not marry without the Kings licence. *Register original,* fol. 298. a.

Safe conduct. See *Safe conduct.*

Salus, is a coyne of Gold stamped by King Henry the sixt in France, which onely coyne, with another of Blanes of eight pence a piece, was currant in those places of France, where King Henry was obeyed. *Stowes Annals,* pag. 589.

Safe pledge (*Salvum plegium*) is a suretie given for a mans apparence against a day assinged, *Bracton lib. 4. cap. 2. nn. 2.* where it is also called *certus plegium.*

Sailing ware, anno prim. R. 3. cap. 8.

Sak. See *Sac.*

Sakeber, in *Britton cap. 15.* & 29. seemeth to bee hee that is robbed, or by theft deprived of his goods: with whom *Bracton* also agreeth, *lib. 3. tract. 2. cap. 32. nn. 2.* in these words: *Furtum vero manifestum est, ubi latro deprehensus sit scisitus de aliquo la-*

trocinio sc. Hondbabende, & Backberend, & insecurus fuerit per aliquem, cuius res illa fuerit, qui dicitur Sacaburthe, &c. or Sathaber, as Stamford calleth it, pl. cor. lib. pri. cap. 21. The interpretation of this word I finde not. Onely M. Skene de verb. interpretatione, verbo. (*Sacreiborhg*) thinketh it shoulde rather be written. *Sickerborgh,* of (*Sicker. i. Securus*) and *Borgh. i. plegium* signifying a sure cautioner, or surety which one findeth to another for theft, or slaughter: whereof he offereth to accuse him judicially. For in this case it behoveth the persiewer to oblige, or binde himselfe into the hands of the Officer, or before a Judge competent with *Sicker Borgh*, or sure caution, that hee will persiew in form of Law. And by this meanes it may bee, that the accuser was wont with us to be called *Sakbere* of a circumstance, because in this case hee was surely bound to persiew. *Sycker* is also an old English word, signifying as much as sure, secure, or certaine, and see *Borrome.*

Salet, is a head-piece, anno 4. & 5. *Phil.* & *Mar.* it seemeth to come from the French (*Salut. i. Salus.*)

Salmon semse, seemeth to bee the young fry of *Salmon, quasi salmon issae,* anno 13. *Rich. 3. stat. pri. cap. 19.*

Satva Gardia, is a security given by the King to a stranger, fearing the violence of some of his subjects, for seeking his right by course of Lawe : the forme whereof see in the Register originall. fol. 26. a. b.

Sanctuarie (*Sanctuarium*) is a place priviledged by the Prince, for the safegard of mens lives, that are offenders, being founded upon the Lawe of mercie, and upon the great reverence, honour, and devotion, which the Prince beareth to the place, whereunto hee graunteth such a priviledge. Of this you may read a sufficient treatise in *Stawnf.* pl. cor. lib. 2. cap. 38. This seemeth to have taken beginning from the Cities of refuge: which *Moyse* appointed them to flye unto for safegard of their lives, that had by casaultie slaine a man. *Exodus* cap. 21. In bastardly imitation whereof, first the *Athenians*, then *Romulus* erected such a place of immunity, which they, and hee after them called *Asylum*. *Polydor: Virg: de inventione rerum*, lib. 3. cap. 12. The Emperours of Rome made the places of their owne statuas or Images, a place of refuge, as appeareth. *Cod. lib. 1. titulo 15. De iis qui ad statuas configiunt*: as also the Churches: *eodem, titulo 12. De iis qui ad ecclesias configiunt*, &c. But among all other nations,

our ancient Kings of England seeme to have attributed most to these Sanctuaries, permitting them to shelter such, as had committed both felonies, and treasons, so that within fortie dayes they acknowledged their fault, and so submitted themselves to banishment: during which time, if any man expelled them, if hee were lay, he was excommunicated, if a Clerke, hee was made irregular. But after fortie dayes no man might relieve them. *Stawnf. ubi supra*. See of this the new booke of Entries: verb. *Sanctuary*: and *Fleta*: lib. 1. cap. 29. And how by degrees they have beeene taken away, you may read partly in him, and partly in the Statutes, a. 26. Hen. 8. ca. 13. & anno 28. *ejusdem*, cap. 7. & anno 32. *ejusd. cap. 12*. & anno 33. *ejusdem, cap. 15*. & anno pri. Ed. 6. cap. 12. & anno 2. *ejusdem, cap. 2*. & cap. 33. & anno 5. *ejusdem cap. 10*. See *Abjuration*.

Salarie (*salarium*) is a recompence or consideracion made to any man for his paines or industry bestowed upon another mans businesse. So called, as *Pliny* saith, *qui tam necessarium quam sat homini*. The word you have, anno 23. Ed. 3. cap. pri.

Salmon pipe, anno 25. H. 8. cap. 7. is an engine to catch Salmones, and such like Fish.

Sandal, anno 2, Rich. 2, cap. 1. is a merchandize brought into England. And it seemeth to bee a kinde of wood brought out of India. For (*Sandal*) in French so signifieth, and in Latine it is called *Santalum*.

Sarkling time, or time of sarkling. Seemeth to be all one with hey seale. Or the time when the country man weedeth his Corne. And it proceedeth from the Latine *sarculare*, to rake or weede. Or from the French (*Sarcler*) which hath all one signification.

Sarpler, (*Sarplera lana*) is a quantity of Wooll. This in Scotland is called Serplathe and containeth fourescore stone, for the Lords of the Councell in anno 1527. decreed foure Serpliathes of packed Wooll to containe sixteencore stone of wooll, by the traffique of Merchants now used. The Merchants use to fraught for their goods to *Flanders*, by the Sacke to *France*, *Spaine*, and *England*, by the Tunne, and to *Danken*, and the Easterne Seas, by the Serpliath. *Skene de verborum significacione*, verbo *Serpiatbe*, with us *England* a load of Wooll (as I have beeene informed) consisteth of eighty Todde, each Todde consisting of two stone, and each stone of fourteen pound. And that a Sacke of VVooll is in

common account equal with a Load: and a Sarplar (otherwise called a pocket) is halfe a Sacke. Further that a packe of Wooll is a Horse loade, which consisteth of seventeene stone, two pounds. *Fleta lib. 2. cap. 12.* saith, that all our English measures are compounded of the penny sterling, which weigheth 3 2. VVheate cornes of the middle sort, and that two of those pence make an ounce, and twelve ounces a pound in weight, or twenty shillings in number, and that eight pound of Wheat maketh a jallon, or a gallon as wee now call it, and eight gallons a bushell, and eight bushels a common quarter. Also that fifteene ounces of the quantity aforesaid doe make a Merchants pound. And that 12. such pound and a halfe, make a stone, and that fourteene stone make a waigh, and that two waighes or twenty eight stone, make a sacke of Wooll, which ought to weigh a quarter of VVheate, and that 12. Sackes make a Last. So that a waigh, and a Sarpler seemeth to bee all one, but that the Sarpler is the case, and the weigh respecteth the quantitie of the VVooll it selfe: And that a load and a sacke is all one.

Saunderfin, is a phrase used by *Britton*, cap. 119. for the determination, or finall end, of the lineall race, or descent of a kin-

dred. It seemeth to come from the French (*Song i. sanguis*) and *Fine.* *i. finitus.*)

Sauer de default, is word for word, to excuse a default. This is properly, when a man having made default in Court, commeth afterward and alreadeth good cause, why he did it, as imprisonment at the same time, or such like. New booke of Entries, verb. *Sauer de default.*

Sancte conduct (*safus conditius*) is a security given by the Prince, under the broad seale to a straunger, for his quiet comming in and passing out of the Realme, touching which you may see the Statutes. anno 15. H. 6. cap. 3. & anno 18. ejusdem. cap. 18. & anno 28. Hen. 8. cap. pri. The forme of this see in the Register originall, fol. 25.

Stawnford, was a man very learned in the common Lawes of the Land, wherein hee wrote two bookes, one termed the plees of the Crowne, the other the Princes prerogative. Hee florished in the dayes of Ed. the sixt, and of Queene Mary, being in Queene Maries dayes a Judge, and knighted.

Scandalum Magnum, is the especiall name of a wrong done to any high personage of the Land, as Prelates, Dukes, Earles, Barons, and other Nobles: and also of the Chanceller, Treasurer,

Clerk of the privie Seale, Steward of the Kings house, Justice, of the one bench or of the other, and other great officers of the Realme, by false newes: or horrible and false messages, whereby debates and discords betwixt them and the commons, or any scandall to their persons might arise: anno 2. R. 2. cap. 5.

Scavage, otherwise called *Shewage* is a kind of tolle, or custome exacted by Maiors, Shyreeues, and Bailiffes of Cities, and Borough Townes, of Merchants for wares shewed to be soulde within their Precincts, which is forbidden by the Statute. anno 19. Hen. 7. cap. 8. It commeth of the Saxon word (*Sceare*) to behold or view, or to shewe, whence is the word (*Scean-stowe*) a theater or shew place, a beholding place, *M. Verstegan in his restitution of decayed intelligences literas.*

Scire facias, is a Writ Judiciall, most commonly to call a man to shew cause unto the Court, whence it is sent, why execution of a Judgement passed, should not be made. This writ is not graunted before a yeere and a day bee passed after the Judgement given, *ould. nat. br. fol. 15. 1.* *Scire facias* upon a fine, lieth after a yeere and a day from the fine levied. Otherwise it is all one with the writ *Habere*

ber facias seismam. West. part. 2.
symb. titulo fines, sect. 137. See an.
25. Edwardi 3. sta. 5. cap. 2. v. au.
39. Elizabeth cap. 7. The Register originall and Judiciall also in
the Table sheweth many other diversities of this writ, which reade.
See also the new booke of Entries.
verb. Scire facias.

Seyra. Cambd. Britan. pag. 103.
& 544. See Sbyre.

Scot, seemeth to come of the French (*scot. i. symbolum*) Raftall saith it is a certaine custome, or common tallage made to the use of the Shyreeve, or his Bayliffes. *Saxon in his description of England.* cap. 11. saith thus: Scot a gadering to worke of Bailes: what he meaneth God knoweth, I thinke the place is corruptly printed. Scot (saith *M. Garsden* out of *Malibens of Westm.*) illud dicitur, quod ex diversis rebus in unum aceruum aggregatur. In the Lawes of William the Conqueror, set forth by *M. Lamberd*: fol. 125. you have these words, *Et omnis Francigena, qui tempore Edwardi propinqui nostri fuit in Anglia, particeps consuetudinum Anglorum, quod dicunt aue hlole, & aue scote persuauantur secundum legem Anglorum.*

Scot and Lot anno 33. H. 8. cap. 19. signifieth a customary contribution laid upon all subjects after their habillity. *Roger Hoveden* writeth it *Anlote & Anscote*,

in principio Henrici secundi.

Scotall (scotalla) is a word used in the Charter of the Forest, c. 7. in these words, as *Papilla oculi* hath them, *parte 5. cap. 22. Nullus Forestarius vel Bedellus, faciat Scotallas vel garbas colligat, vel aliquam collectam faciat, &c. M. Manwood parte pri. of his Forest Lawes. pag. 216.* thus defineth it. A Scotall is where any Officer of the Forest doth keep an ale house within the Forest, by colour of his Office, causing men to come to his house, and there to spend their money, for feare of having displeasure. It seemeth to be compounded of *Scot* and *Ale*.

Scutagio bubendo, is a writ that lieth for the King or other Lord against the Tenant, that houldeth by Knights service, (wherein homage, fealtie, and escuage be conteined) being to make a voyage to warre against the Scots, or French men. For in those cases, this writ issueth out to all such tenents to serve by themselves, or a sufficient man in their place, or else to pay, &c. See *Fitz. nat. br. fol. 83.* It is used in the Register originall, for him to recover escuage of others, that hath either by service or fine performed his owne to the King. fo. 88. a.

Sealer (Sigillator) is an Officer in Chauncerie, whose duty is to

seale the Writs and Instruments there made.

Seane fish, anno 1. Jacob. ses. 1. c. 25. Seane fish. ibidem, seemeth to bee that fish which is taken with a very great and long net called a Seane.

Second deliverance (secunda deliberatione) is a Writ that lyeth for him who after a returne of Catell-replevied adjudged to him that distreined them, by reason of a default in the partie that replevied, for the repleavying of the same Cattell againe, upon securtie put in for the redelivery of them, if in case the distresse bee justified. New Booke of Entries verbo, *Replevin in second deliverance.* fol. 522. col. 2. v. Dyer fol. 41. num. 4. 5.

Secta ad Curiam, is a writ that lyeth against him, who refuleth to performe his suit either to the County, or Court Baron. *Fitzh. nat. br.* fol. 158.

Secta facienda per illum qui habet eniciam partem, is a Writ to compell the Heire that hath the elders part of the coheires, to performe service for all the Coparceners, *Regist. orig.* fol. 177. a.

Secta molendini, is a WRIT lying against him, that hath used to grinde at the Mill of B. and after goeth to another Mill with his Corne. *Register original.* fol. 153. *Fitzh. nat. brev.* 122. But it seemeth by him, that this writ

lyeth especially for the Lord against his franke Tenents, who hold of him by making suite to his Mill, *eodem*. See the new book of Entries. *verbo secta ad molendinum.* By likelihood this service is also in France. For *Baldinus ad titulum de servitutibus prediorum, in Institut.* hath these words: *Bannalis mola nova & barbare servitutis species est, que hodie passim rustici coguntur una mola, quam bannalem vocamus, unoque furno uti ad quæsum Doafni, qui fortasse precepit jurisdictioni ejus pagi.*

Sectam proferre, est testimonium legalium hominum qui contractui inter eos habito interfuerint presentes producere. *Fleta lib. 2. cap. 63. §. Nullus.* And *secta* is used for a witness, *Idem. lib. 4. cap. 16. §. final.* *Habes tamen sectam unam vel plures, &c.*

Secta ad Justitiam faciendam, is a service due for a mans fee to bee performed, being by his fee bound thereunto. *Braclon lib. 2. cap. 16. num. 6.*

Secta unica tantum facienda pro pluribus hereditatibus, is a Writ that lyeth for that Heire that is distreined by the Lord to more suits than one, in respect of the Land of divers Heires descended unto him. *Register originall folio 177. a.*

Secta non faciendis, is a Writ, that lyeth for one in wardship to

to bee delivered of all suites of Court during his wardship, Register origin. fol. 173. b. See other use of this writ, *codem*, fol. 174. touching women that for their dower ought not to performe suit of Court.

Secunda supereneratione pasture, is a writ that lyeth, where measurement of pasture hath been made, and he that first surcharged the common, doth again surcharge it, the measurement notwithstanding. *Regist. origin. fo. 157. old nat. br. fo. 73.*

Secundarie, (*secundarius*) is the name of an Officer next unto the chiefe Officer: as the Secundarie of the fine Office: the Secundarie of the Counter: which is (as I take it) next to the Shireeve in London in each of the two Counters. Secundarie of the Office of the privie seale. anno 1. Ed. 4. cap. 1. Secundaries of the Pipe two: Secundarie to the Remembrancers, two, which bee Officers in the Exchequer. *Camden. p. g. 113.*

Securitatem inveniendi, quod se non divertat ad partes exteriores sine licentia Regis, is a writ that lyeth for the King against any of his subjects, to stay them from going out of his Kingdome. The ground whereof is this, that every man is bound to serve and defend the Common-wealth, as

the King shall thinke meet. *Fitz. nat. br. fo. 85.*

Securitate pacis, is a writ that lyeth for one, who is threatened death or daunger, against him that threatneth, taken out of the Chancerie to the Shyreue: whereof the forme and farder use you may see in the Register orig. fo. 88. b. and *Fitz. nat. brev. fo. 79.*

Se defendendo, is a plee for him that is charged with the death of another, saying that he was driven unto that which he did, in his owne defence, the other so assaulting him, that if hee had not done as hee did, hee must have beeene in perill of his owne life. VVhich danger ought to bee so great, as that it appeare inevitable. As *Stawnford* saith in his plees of the Crowne. lib. 1. cap. 7. And if hee doe justifie it to bee done in his owne defence, yet is he driven to procure his pardon of course from the Lord Chancellor, and forfeiteth his goods to the King. As the said Author saith in the same place.

Seignior (*Dominus*) is borrowed of the French (*seigneur*) It signifieth in the generall significacion, as much as Lord: but particularly it is used for the Lord of the fee, or of a mannor, even as (*Dominus*) or (*senior*) among the Feudists, is hee, who granteth a fee or benefit out of his Land to

to another. And the reason is (as Hotoman saith) because having graunted the use and profit of the land to another: yet the p[ro]pertie. i. (*Dominium*) he still reteineth in himselfe. See *Hotoman in verbis feudal. verbo Dominus, & Senior.* Seignior in grosse, seemeth to be hee that is Lord, but of no mannor, and therefore can keepe no Court. *Fitz. nat. bre. fol. 3. b.* See *Signorie.*

Seignourage, anno 9. H. 5. stat. 2. cap. 1. seemeth to bee a regalitie or prerogative of the King, whereby hee challengeth allowance of gold and silver brought in the masse to his Exchange, for coyne.

Seignorie (*Dominium*) is borrowed of the French (*seigneurie*. i. *ditio, dominatus, imperium, principatus, potentatus.*) It signifieth peculiarly with us, a Maner, or Lordship. *Seignorie de soke mans. Kitchin. fol. 80.* *Seignorie* in grosse, seemeth to bee the Title of him that is not Lord by meanes of any maner, but immediately in his owne person: as *Tenure in capite*, whereby one holdeth of the King, as of his Crowne, is *seignorie in grosse*: because it is held of the King for the time being, and not of the King, as of any honour, maner, &c. *Kitchin, fol. 206.* See *Signior.*

Seisin (*seisina*) is borrowed of

the French (*seisine i. possessio,*) and so it signifieth in our common Law: and to *seise*, is to take possession. *Primier seisim* (*prima seisina*) is the first possession. See *Primier seisim*, of the French word (*seisir*) is made a Latine (*seisire*), used by the Canonists, *cap. Clericis. §. Nos igitur non semel de immunitate Ecclesie, num. 6.* as also the Civilians. *Guido Pap. singula. 865. Seisire est etiam possessionem tradere. Tiraquellat in Tractatu. Le mort faist le viv. pag. 53. num. 3. Seisin* with our common Lawyers, is two-fold: *seisin in fact*; and *seisin in Law*. *Perkins Dover. 36. 370.* *Seisin in fact* is, when a corporall possession is taken: *seisin in Law*, is when something is done, which the Law accompreth a *seisin*, as an Inrolment. *Seisin in Law*, is as much as a right to Lands and tenements, though the owner bee by wrong disseised of them. *Perkins Tenent per le courtesie. 457. 478.* And it seemeth by *Ingham*, that he who hath had an houres possession quietly taken, hath *seisin de droit, & de clame*, whereof no man may disseise him by his owne force or subtily, but must bee driven to his action. *§. Bref de novel disseisin. Sir Edward Cooke lib. 4. calleth it seisin in Law, or seisir actuall. fol. 9. a.* The Civilians call the one *civilem possessionem*, the other *naturalem*.

Seisina

Sefina habenda quis Rex habuit annum, diem, & vastum, is a Writ that lyeth for delivery of *seisen* to the Lord, of his Land, or Tenements that formerly was convicted of felony, after the King in the right of his Prerogative hath had the yeare, day, and waile. *Reg. orig. fol. 165. a.*

Selion (selio) is borrowed of the French (*sello* i.e. *terra elata inter duos sulcos* in Latine (*Porca*) in English a *Ridge*, or land. It signifieth even so with us also: and is of no certaine quantity, but sometime containeth an Acre, sometime halfe an Acre, sometime more, and sometime lesse. *West. parte 2. symbol. titulo Recovery. sect. 3.* Therefore *Crompton* in his jurisdictions: fol. 221. saith that a selion of Land cannot be in demaund, because it is a thing uncertaine.

Seneschall (senescallus) is a French word, but borrowed from *Germany*, being as *Tilim* saith) compounded of *Schal* i.e. *seruus, aut officialis*, and *Gesnid*. i. *familia*) we English it it a Steward. As the high Seneschall, or Steward of England: *pl. cor. fol. 152.* High Seneschall or Steward, and South Seneschall, or Understeward. *Kitchin. fol. 83.* is understood for a steward, or understeward of Courts. *Seneschal de l'ho-
tel de Roy*, Seward of the KING's housshold. *Cromptons*

Jurisdictions. folio 102.

Senescal & Marshall quod non teneant placita de libero temento, &c. is a writ directed to the Steward or marshall of *England*, inhibiting them to take cognizance of any action in their Court, that concerneth either Freehold, debt, or Covenant. Register originall. folio 185. a. 191. b.

Senie, aliis, Sene (*senia* is a leafe of a medicinable herbe, that bringeth forth stalkes of a cubite high, purging Phlegmatick Cholerick, and also Melancholike humours, without great violence. The farther use whereof you may reade in *Gerrards Herball lib. 3. cap. 8.* This is mentioned among other Drugges and splices to bee garbled, anno 1. *Jacob. cap. 19.*

Septuagesima, is a Sunday certaine, and alwayes the third Sabbath before Shrove-tunday, from the which untill the Octaves after Easter, the solemnizing of marriage is by the Canon Lawes forbidden. The reason whereof is given, for that all this time untill Easter, is a time of mourning for the fall of *Adam*, and for the miserie of man thereof insuing. And Easter with the Octaves thereof is a time of Christ's glorification, and so of ours also in him, for his, and by him our conquest over death and finne.

And that therefore all carnall affection ought, during that space, to be wholly mortified in us. See *Quinquesima*, see *Advent*, see *Rogation weeke*.

Sequatur sub suo periculo, is a Writ, that lyeth, where a summons *ad warrantizandum* is awarded, and the Sheriffe returneth, that hee hath nothing whereby hee may bee summoned. For then goeth out an (*Alias*) and (*Pluries*). And if hee come not at the (*Pluries*) then shall goe out this writ. *Old nat. brev. fol. 163.*

Sequestration (*sequestratio*) is a separating of a thing in controversie from the possession of both those that contend for it. and it is double: voluntary, or necessary. Voluntarie, is that which is used by the consent of each partie. Necessarie is that which the Judge of his authoritie doth, whether the parties will or not. It is used also for the act of the ordinary disposing of office, the goods and chattells of one deceased, whose estate no man will meddle with. *Dyer. fol. 232. num. 5. & fol. 256. num. 8. & fol. 160. num. 42. & fol. 271. num. 26.* as also in the gathering of the fruits of a Benefice voided, to the use of the next Incumbent. *anno 28. H. 8. cap. 11. Fortescue. cap. 50.* and in divers other cases.

Sequestro habendo, is a writ judiciall for the dissolving of a sequestration made by the Bishop, at the Kings commandement of the fruits of a Benefice, thereby to compell the Parson to appeare at the suite of another: for the Parson upon his appearance may have this writ, for the release of the sequestration. *Register Judiciale. fol. 36. a.*

Sergeants (*serviens*) commeth of the French (*sergeant. i. satelles, accensus*) a man of the Gaurd, a kind of Souldier, so called, because hee was *sepè accusitus ad res necessarias in exercitu peragendas*. *Calepin. M. Skene de verb. signif. verb. Serjant*, hath these words: Sergeant commeth from *Sergent quæ est vox composita de (Serrer) quod est, includere, & gent. quod pro gente, populo vel plebe usurpatur. Itaque Serjandus dicitur, qui iussu magistratus, quemlibet de populo reum criminis in carcerem conjicit, seu includit.* This word Sergeant is diversly used in our Law, and applied to sundry offices and callings. First a Sergeant at Law (or of the Coyse) is the highest degree taken in that profession, as a Doctor in the civil Law. And to these, as men best learned, and best experienced of all others, is there one Court severed, to plead in by themselves: (and that is the Court of Common-plees) where the Common lawe

Law of England is most strictly observed. These are made by the Kings mandat, or Writ, directed unto them, commanding them upon a great penaltie, to take upon them that degree by a day certaine therein assignd. *Dyer fol. 72. num. 1.* see *Counte*. And of these one is the Kings Sergeant, being commonly chosen by the King out of the rest, in respect of his great learning, to pleade for him in all his causes: as namely, in causes of treason. *pl. cor. lib. 3. cap. prvn.* And of these there may be more if it so please the King. This is called in other Kingdomes, *Advocatus Regius. Caffan. de consuet. Burgund. pag. 850.* With what solemnitie these Sergeants be created, reade *Fortescue, cap. 50.* This word Sergeant seemeth to bee used in Britton for an Officer belonging to the Countie: who in his first chapter speaking of Appeals made before the Coronner, hath these words in effect: And then let the Coronner cause his appeale to be entred, and the names of his sureties. And afterward let commaundement bee given to the Sergeant of the Countie, where the felonie was committed, that hee have the bodie of the persons appealed at the next Countie. And it is probable, that this Officer was all one with him, whom *Bra-*

Eton in his fifth booke *cap. 4. num. 2* calleth *Servientem Hundredi*: of whom hee hath these words: *Post probationem defalca, faciet serviens Hundredi incontinenti summitionem, vel affidet partibus diem, si prusentes sint, ad proximum Comitatum, &c.* This is like to be the same Officer, which in ancient time was called the Bayliffe of the Hundred, who (as is declared in *Bayliffe*) had the like authoritie in his Hundred, that the Shyreve had in the Countie, though inferiour to him, and to be controlled by him, as appeareth by divers ancient presidents set downe by *Kitchin* in his Tractat of Returns in Court Hundred, Court Baron, &c. I read also in *Braclon lib. 3. tractat. 2. cap. 28.* Of the Kings Sergeant, who is like to be also an Officer in the Countie, in these words: speaking of a woman ravished, and what shee ought to doe for the pursuite of the Ravisher, *& sic ire debet ad prepositum Hundredi, & ad servientem Domini Regis, & ad coronatores, & ad vicecomitem & ad primum comitatum faciat appellum suum.* And againe *eod. l. c. 32.* in these words: *& si sine se & tunc cognoverit se inde esse latronem coram vicecomite, vel coronatore, vel serviente Domini Regis, &c.* And againe, *lib. 5. tractat. 3. cap. 4. num. 8.* in these words: *Quid si serviens Domini Regis dederit partibus diem*

ad Comitatum, &c. And by *Fleta* it seemeth that this terme was generall to the Shyreeve, Coronner, and Bayliffes of Counties, who in his sixth booke, cap. 3. §. 1. hath these words : *Com qui iigitur senserit dominum suum vel curiam suam sibi de recto defecisse, tunc ostensa hoc vice comiti, statim precipiat battivo Hundredi, vel itineranti, vel alteri servienti Regis, quod assumptis sibi liberis, & legalibus hominibus de vicineto illo, ad curiam illius domini, si quem habuerit accedat, &c.* And to helpe this probabilitie, I finde that the steward of a manner is termed *serviens manerii*. *Coke Vol. 4. Copybouuld cases. fol. 21. a.* Then is there a Sergeant at armes (*serviens ad arma*) whose office is to attend the person of the King, *Anno 7 H. 7. cap. 3.* to arrest traitours, or men of worth or reckning, that doe, or are like to contemne messengers of ordinary condition for other causes, and to attend the Lord high Steward of England sitting in judgement upon any Traitor, and such like. *pl: cor. lib. 3. cap. pri.* Of these by the Statute *anno 13 R. 2. cap. 6.* there may not be above thirtie in the Realme. This sort is called *delesee*. In the custumary of *Nor. car. 5.* which reade. There be also some two of these Sergeants of the Parliament, one for the upper, another for the lower

house, whose office seemeth to serve for the keeping of the doores, and the execution of such Commandements, especially touching the apprehension of any offender, as either house shall thinke good to enjoyne them. See *Cromptons Jurisdictions. fol. nouo.* See also *Vowels, alias Hookers booke of the order of the Parliament.* There is one of these that belongeth to the Chauncery, who is also called a Sergeant of the Mace, as the rest may be, because they carry Maces by their office. Hee of the Chauncery attendeth the Lord Chaunceeler, or Keeper in that court, for the means to call all men into that court, is either by this officer, or by *sub pœna West. pa. 2. sym. tit. Chancery, Sect. 17.* Then be there sergeants that be the chief officers in their severall functions within the Kings housshould, which bee chiefe in their places, of which sort you may read many named in the statute *anno 33 H. 8. cap. 12.* There is also a more base kind of sergeant of the Mace, whereof there is a troupe in the City of London, and other townes corporate, that serue the Maior or other head officer, both for mesniall attendance, and matter of Justice. *Kitchin. fol. 143.* And these are called *Servientes ad clavam.* New book of *Entries. ver. scire facias.*

cias : in Mainpners. fol. 538.
cap. 3.

Sergeantie (*Serriantia*) commeth of the French (*Sergeant. i. scatelles*) and signifieth in our common law, as service due to the King from his tenent holding by such service. For this service cannot be due to any *L.* from his Tenant, but to the King only. And this is either grand, or petit, as you shal find at large set down in Chivalrie. Of this also you may read *Bra. l. 2. c. 16. & c. 37 n. 5. 4. & Brit. c. 66. n. 1. & 2.* See Service. *M. Skene de ver. signif.* calleth this Sergeantie, defining and dividing it as we doe in England.

Servientibus, are certaine writs touching servants, and their Masters violating the statutes made against their abuses, which see in the Register original. fol. 189. & 190. & 191.

Service (*servitium*) though it have a general signification of due-tie toward them unto whom wee owe the performance of any corporall labor, or function: yet more especially in our common law, it is used for that service, which the tenent by reason of his fee, oweth unto his Lord. And so doth it signifie among the Feudists also. For Hotomon thus defineth it. *Servitium est munus obsequii clientelaris.* verbo Servitium. De verbis feudal. or rather declareth it so to bee defined. *lib. fid. 2. titulo 51. Sect.*

8. It is sometime called servage as anno i. R. 2. cap. 6. This service is either militarie, and noble, commonly called Knights service : or clownish and base, commonly called scoggage, of both which read *Chivalry*, as also scoggage. And *Braeton lib. 2. cap. 16.* Service is divided by Britton into personall, and reall. *cap. 66.* where he maketh wards, marriages; homage, Relicces, and such like, to be reall services : personall, I imagine, may those be called, that are to be performed by the person of the Tenant, as to follow his Lord into warre, &c. The Civilians divide munera in this sort, either in *personalia*. or *patrimonialia*. Then *Braeton vbi supra. num. 7.* distributeth servitium in *intrinsecum*, & *extrinsecum* alias *forinsecum*. & *medium*. *Servitium intrinsecum* is that, which is due to the capitall Lord of the manner, *Forinsecum* is that which is due to the King, and not to the capitall Lord, but when he goeth in his owne person to serve : or when he hath satisfied the King for all services whatsoever. And againe in the same place hee saith, it is called *Fornisecum, quia fit, & capitur foris*, *sive extra servitium, quod fit Domino capitali.* See *Forein service.* Of this reade him *vbi supra*, more at large, and *Fleta, lib. 2. cap. 14. §. Continetur.*

*Servitii que nec intrinsec*s* nec forinsec*s* sunt.* Bract. handleth in the same chap. nu. 8. saying thus: *sunt etiam quaedam consuetudines, que nec dicuntur intrinsec*e*, nec forinsec*e*: sed sunt quedam servitia concomitantia, sicut serviti*s* regalia, & militaria, & etiam homagia: & ideo in chartis non sunt exprimenda.* Quia si homagium praecesserit, & regale servitium, sequitur exinde quod ad capitalem Dominam pertinebit Relevium, & custodia, & maritagium: sive servitium sit militare, vel seruantiz propter exercitum, &c. Heere then Reliefe, Ward, and Marriage, bee those services, which hee calleth, *nec intrinsec*a*, nec forinsec*a*, sed concomitantia.* Service is also devided into frank service, and base, or villenous service: the one Bracton, calleth (*liberum servitium*) the other (*servitium villanum*) or (*villenagium*) lib. 2. cap. 8. num. pri. This *villenagium* is Soceage in base tenure, as to dung the Lords ground, to serve him so many dayes in harvest, to plash his hedges, &c. or else copy hold. All other services seeme to bee frank. Service consisteth some in seiulane, some in render. *Perkins Reservations.* 696. Service seemeth also to bee divided into continuall, otherwise annuall, and casuall, or accidental. An example of the former is the seiulane of rent, and of the other, sei-

sin of relieve. Sir Ed. Cookes Reports. lib. 4. Bevils case. fol. 9. a. See *Copy hold*. See *Socage*. See *Ayde*.

Service secular, anno 1. Ed. 4. c. 2. t. which may be contrary to spirituall, viz. the service divine commanded to spirituall men by their founders.

Servitours of Bills, seeme to bee such servants or messengers of the Marishall belonging to the Kings bench, as were sent abroad with Bills, or Writs to summon men to that Court, being now more ordinarily called *Tipstaffs*.

Servitii acquietandis, is a Writ Judiciall, that lyeth for one distreined for services by John, which oweth and performeth to Robert, for the acquitall of such services. Register Judiciall, fol. 27. a. & 35. b.

Sessions (*Sessiones*) signifieth in our common Law a sittynge of Justices in Court upon their commission: as the Sessions of eyre, and terminer. pl. cor. fol. 67. Quarter Sessions, otherwise calld generall Sessions. anno 5. Elizabeth cap. 4. or open Sessions. ibidem. Opposite whereunto are especiall, otherwise called privie Sessions, which are procured upon some speciall occasion, for the more speedie expedition of Justice in some cause. *Cromptons Justice of peace.* fol. 110. what things

things bee inquirable in generall Sessions : see Cromptons Justice of peace, fol. 109. Petit Sessions, or Statute Sessions, are kept by the high Constable of every Hundred, for the placing of Servants, an. 5. Eliz. ca. 4. in. fine.

Sessour, an. 25. Edw. 3. cap. 6. seemeth to signifie so much as assesting or rating of Wages at this day.

Sat Clothes, anno. 27. Henric. 8. cap. 13.

Setwell, Valeriana, is a medicinall herbe, the nature and divers kinds whereof you have in Gherards herball, lib. 2. cap. 424. The roote of this is mentioned among drugges to be garbled, an. 1.

Jacob. cap. 19.

Severance, is the singling of two or more, that joyne in one Writ, or are joyned in one Writ. For example, if two joyne in a Writ de *Libertate probanda*, and the one afterward bee nonsuite, here severance is permitted; so that, notwithstanding the nonsuit of the one, the other may severally proged. *Fitzherbert, nat. brev.* fol. 78. I. K. Of this see *Brooke, titulus, Severance & Summons*, fol. 238. For it is harder to know in what cases severance is permitted, then what it is. There is also severance of the *Tenentis* in an *Affise*, when as one or two, or more disseisours appeareth upon the Writ, and not

the other. New Booke of *Enteries*, fol. 81. col. 4. and *Severance in Attaints*. eod. fol. 95. col. 2. And severance in debt. *verbo debt.* fol. 220. col. 1. see the said Book, *verbo, Severance*.

Senerall taile (*tallium separatum*) is that whereby land is given and entayled severally to two. For example, land is given to two men, and their wives, and to the heires of their bodies begotten: the Donees have joyned estate for their two lives, and yet they haue severall Inheritance: because the issue of the one shall have his moyetie, and the issue of the other, the other moyetie, *Kitchin, ibid.*

Severall tenancie (*tenura separalis*) is a Plee, or exception taken to a writ, that is laid against two as joyned, which are severall, *Brooke titulus, Severall tenancie*, fol. 237.

Sewantly woven, an. 35. Eliza. cap. 10.

Sewer, hath two significations with us, one applyed to him that issueth or commeth in before the meat of the King, or other great personage, and placeth it upon the table: the other to such passages, or gutters as carry water into the sea or river, in Lawyers Latine called *Sewera*, an. 6. H. 6. c. 5. which is also used in common speech for commissioners authorised under the broad seale to see draines, and ditches,

ditches well kept, and mantained in the Marish and Fenne Countries, for the better conveyance of the water into the Sea, and the preserving of the grasse for feede of Cattell. *stat. anno 6. H.6. cap.5.* It is probable to bring this word from the French (*issir*) or (*issire*) as if we should call them (*Issuers*) because they give issue or passage to the water, &c. And the Latine word (*fusa*) sometime used in these commissions for these draines, is a competent reason of this conjecture : See *Fuz. nat. brev. in Oyer and Terminer.* Yet I finde in an old French Booke containing the Officers of the King of Englands Court as it was Aunciently governed, that hee whom in Court wee now call *Sewer*, was called (*Affeur*) which may seem to come from the French (*Affoir*) wherein his Office in setting downe the meate upon the Table is well expressed. And *Sewer* as it signifieth an officer, is by *Fleta latined Affessor*: *li. 2. ca. 15.* All which argueth that the descent of this word is from the French (*Affoir*) as signifying a disposing or placing of any thing, or (as wee say in English) an assailing of any person toward the performance of a dutie.

Sexagesima. See *Septuagesima.*
Shuckles. See *Furre.*

Shares. See *Flotzon.*

Shewing, is to be quit of attachment in any Court, and before whomsoever in plaints shewed and not avowed. New exposition of law termes. *verbo, Shewing.* See *Scavage.*

Shipper. *anno 1. Jacob. ses 1. ca. 33.* is a Dutch word signifying the Master of the ship.

Shire (*Comitatus, Shira*) is a Saxon word, signifying *Sistrum*, of the verbe *scran. i. partiri.* (*Lamberd*, in his explication of Saxon words. *verbo Centuria.* The word is in use so rife, that every childe understandeth it. Who first thus divided this land into shires, appeareth by *M. Camdens Britan.* pa. 102. in these words. *Nec dum tamen florente Heptarchia, Anglia ita in Comitatus divisa, (sic enim vulgo vocant) sed postea, cum solus Aluredus rerum potiretur. Ut enim Germani majores nostri, teste Tacito, jura per pagos vicosque reddebat, & centeni ex plebe comites ad rem administrandam adiungebantur : sic ille (ut ingulsi Cronlandensis verbis utar) primus Angliam in Comitatus divisi, quod indigenae resipias committerent exemplo & colore Danorum. Comitatus porro in Centurias i. Hundreds, & Decimas. i. Tybings, distribuis fecit : precepitque ut omnis indigena in aliqua esset Centurias, & Decima. Prefectos etiam provinciarum,*

vinciarum, qui antea Vicedomi*n*i vocabantur, in duo officia divisit, viz. *Iudicis*, nunc *Iusticiarios*: & *Vicecomites*, qui adhuc idem nomen retinunt. See the rest.

Sheriff (*Vicecomes*) is compounded of these Saxon words, (*Scyre*. i. *satrapia*) and (*Revo*) i. *prefectus*) and accordingly he is the chiefe Officer under the King of his Shire, or County. See *Ferme in Lacies Nobility*. pag. 12. *M. Cambden*. pag. 104. Thus describeth his Office : *Singulis vero annis, nobilis aliquis ex incolis preficitur, quem vice comitem, quasi vicarium comitis, & nostrâ lingua Shiref. i. Comitatus prepositus vocamus : qui etiam comitatus, vel provincie Quæstor recte dici potest. Ejus enim est publicas pecunias provinciae sua conquerire, mulatas irrogatas, vel pignoribus ablatis colligere, & erario inferre, Judicibus prestito adesse, & eorum mandata exequi, duodecim viros cogere, qui in causis de facto cognoscunt, et ad Juges referunt* (*Judices enim apud nos, juris solum, non facti sunt Juges*) condamnatos ad suppliciumducere, & in minoribus litibus cognoscere, in majoribus autem jus dicunt *justiciarii*, quos itinerantes ad Assisas vocant, qui quotannis bos Comitatus bin adeunt, ut de causis cognoscant, & de incarceratis sententiam ferant. Henricus secundus bos Itinerantes instituit, vel potius restituuit. Ille (ut inquit *Matheus*

Parisensis) consilio filii sui & Episcoporum constituit *Justiciarios* per sex partes regni, in qua'ibet partes, qui jurarent quod cuiilibet ius suum conservarent illesum. Of the antiquitie and authoritie of this Officer, reade Sir Edward Cookes Reports lib. 4. *Mittons case*. The manner of appointing these Sheriffs in Henry the sixt his dayes, See in *Fortescue*, cap. 24. fol. 53. b. The name *Vicecomes* commeth from the Normans, as *Shyreeve* commeth from the Saxons. For in the fifth Chapter of the Grand Custumary, you have (*Viconte*) which the Latine interpreter turneth (*Vicecomitem*) whose Office you shall finde in that chapter to bee very like unto ours. The forme of the Shyreeves oath, see in the *Register Originall*. fol. 331. b. Of this reade Master *Skeve de verborum significat*. verbo *Shyreeve*: where hee largely describeth the Office of the Shyreeve in Scotland, in a discourse worth the reading.

Shyreeverweke of Winchester & of Essex. anno 21. R. 2. cap. 10. & 11.

Shire Clerke, seemeth to bee the Undershyreeve. anno 11. H.7. c. 15. It is used sometime for a Clerke in the County Court, Deputy to the Undershyreeve. See Sir Edward Cookes 4 books of Reports in *Mittons case*.

Shire moie, See *Turke*.

Shorling, and *Morling* seeme to bee words to distinguish Fells of sheepe : as if *Shorling* should signifie the Fels after the Fleeces bee shorne off the sheeps back, and *Morling* the Fels flean off after they be killed or die alone.

Anno 3. Edw. 4. cap. prim. & anno 4. ejusdem, cap. 3. & anno 12. ejusdem, cap. 5. & anno 14. ejusdem, cap. 3.

Shot, commeth of the Saxon word, *scate*, signifying *pecuniam aut vectigal*. Lamberds explication of Saxon words, *verbo Primitia*.

Shr of metall.

Sicut alias is a Writ sent out in the second place, whereas the first sped not. *Cooke libro quarto folio. 55. b.* It is so called of these words expressed in it. For example. *Jacobus Dei gratia, &c. vicecomiti Kant salutem: Precipimus tibi (sicut alias praeceperimus) quod non omittas propter aliquam libertatem in Balliva tua, quin eam ingrediaris, & capias. A. B. de C. in Comitatu tuo Labourer, &c.* as in the first *capias*. *Lamb.* in his treatise of Processes in the end of his *Eirenarcha*.

Sidemen, *alias Quest men*, bee those that are yearly chosen according to the custome of every Parish, to assist the Church-wardens in the inquiry and presenting such offenders to the Ordinary, as are punishable in the

Court Christian.

Significavit, is a Writ, *de excommunicato capiendo*, which issueth out of the Chauncery upon a certificate given by an ordinary of a man that standeth obstinately excommunicate by the space of fourty dayes, for the laying him up in prison without Bayle, or Maineprise, untill hee submit himself to the authoritie of the Church. And it is so called, because of the word (*significavit*) mentioned in the writ (*Do excommunicato capiendo*) which have relation to the certificate, sent into the Chauncery by the Ecclesiasticall Judge. There is also another writ within the *Regis. orig.* of this name, *fol. 7. a.* directed to the Justice of the bench, willing them to stay any suite depending betweene such and such, by reason of any excommunication alledged against the plaintiff: because the sentence of the Ordinarie that did excommunicate him, is appealed from, and the appeale yet hangeth undecided, Which see: and see *Fitzher. nat. br. De excommunicato capiendo*, *fol. 62. N.* but especially *66. A.* where you may find writs of this name in other cases.

Sine assensu capituli, is a writ that lieth in case where a Deane, Bishop, Prebendarie, Abbot, Prior or Master of Hospitall, alieneth the

the land held in the right of his house, without the consent of the Chapter, Covent, or Fraternitie. For in this case his successor shall have this writ. *Fitz. nat. br. fol. 195.*

Si non omnes, is a Writ of association, whereby if all in commission cannot meet at the day assigned, it is permitted, that two or more of them may finish the busynesse. See *Association*. And *Fitz. nat. brev. fol. 85. & 111. C. and Register origin. fol. 202. 206. & 124.*

Si recognoscant, is a Writ that lyeth for a Creditour against his Debter for money numbred, that hath before the Shyreeve in the Countie Court, acknowledged himselfe to owe unto his Creditor such a summe received of him in *numeratis pecuniis*. The forme of the Writ is this : *Rex Vicecomiti salutem. Prece. tibi quod si A. recognoscatur se debere R. 40. solid. sine ulteriori dilatatione, tunc ipsum distringas ad predictum debitum eidem R. sine dilatatione reddendum. Teste, &c. Old. nat. brev. fol. 68.*

Skane. anno 4. Ed. 4. cap. 1.

Skyvimage. anno 27. H. 6. cap. 2. a proper name, signifying the precincts of *Cake*.

Sluse (exclusa) is a frame to keepe, or let water out of a ground.

Soc (Soca) is a word signi-

fying a power, or libertie of Jurisdiction, as appeareth by these words out of *Bracton*, *Sunt quidam Barones, & alii libertatem habentes, sc. : soc, & sac. Tol & Thean, Infangtheſe, & Utfangtheſe, & iſti poſſunt judicare in Curia ſua, cum quis inventus fuerit infra libertatem ſuam ſeſtum de aliquo latrocinio maniſteſto. & li. 3. Tractat. 2. cap. 8.* In the lawes of King Edward set out by *M. Lamberd*, fol. 132. you have these words : *Socha est quod si aliquis querit aliiquid in terra sua, etiam furtum, ſua eſt Iuſtitia, ſi inventum fuerit, an non. Saxon in the deſcription of Britany , cap. 11. faſh, that Sock is a ſuit of Court and that thereof commeth Soken.* But the significatiōn of the word (as I have beeene credibly informed) is as much as *Inquisitio* which wee in moderne English, terme (seeking.) Of this (Sok) *Skene de verborum signific. speaketh to this effect. Sok* is an old word uſed in Charters and feofments, which in ſundry old Bookes conteining the māicipall Law of this Realme, is called *Secta de hominibus suis in curia, ſecundum corſuetudinem Regni.* So after my opinion hee that is infeoffed with *Sok* (which now we call *Soit* (but wee in England Suite)) hath power to hold Courts within his owne Baronie, in which, *homines ſui*

should give *Soyt*. Thus farre M. *Skene*. Of this *Pieta* hath these words. *In hujusmodi verò maneriiis* (speaking of the Kings Manors) erant olim liberi homines libere tenentes, quorum quidam cum per potentiores è tenementis suis ejeciti fuerant, & eadem postmodum in *villenagium* tenenda resumpserunt: & quis hujusmodi tenentes cultores Regis esse dico scuntur, eis provisa fuit quies ne seculas facerent ad Comitatus vel Hundredos, vel ad alias inquisitiones, Assisas vel Juratas, nisi in Manorio tantum, dum tamen pro terra, quorum congregationem tunc *socam* appellariunt; & hinc est quòd Socmanni bodie dicuntur esse. A socio enim derivantur, quorum tenementa sunt *villenagium* domini privilegiatum, & ideo dicuntur glebe ascriptitii, eo quòd ab hujusmodi glebis anoveri non deberent, quandiu solverent debitas pensiones: nec competi poterunt ad hujusmodi tenementa tenenda contra suas voluntates, eo quòd corpora sua sunt libera. Nec obstat longa servitutis possessio ad libertatem extinguidam, quamvis ad merchetum sanguinis sui compulsus fuerit quis pro tenemento reddendo. Nullus enim servitus ratione prescriptionis temporis potest liberum sanguinem in servitutem redacere, non magis quam liberum tenementum potest servum in libertatem, &c. By whose words it appearth, that *Soca* is nothing

else, but the meeting or assembly of these kinde of tenents in any place within the Mannor or Libertie: wherefore hee that hath *Soc*, may seeme to have such a Manor, such Tenants, and such a Libertie belonging to his Manor and Tenants, as is here described. Here you see diversities of opinions touching this word, one saying that it is a power or libertie to seeke after Theeves and stollen goods within a Manor or Fee, and to doe Justice upon such inquisition; others, that it is a libertie onely to have suiters to his Court; others, as *Fleta*, that it conteineth both the former significations, and further that it is taken for the company of Tenants which live within such a Liberty; and are exempted from those common services of the Prince and Countrey whereunto subjects are ordinarily tyed. This kinde of liberty is in divers places at this day in England, and commonly knowne by the name of *soke* or *soken*. See *Soke* and *Sockmans*.

Soceage (*soecagium*) commeth of the French (*Soc. i. vomer*, a Plowshare or coulter.) It signifieth in our Common Law a tenure of Lands by or for certaine inferior, or husbandly services to bee performed to the Lord of the Fee. See *Institutes of com-*

common Law. 31. As I have shewed in (*Chivalrie*,) all services due for land, is either Knights service, or soccage. So then, whatsoever is not Knights service, is soccage: *Braclon* in his 2. booke cap. 35. *num. primo* describeth it thus. *Dici poterit soccagium à Socco*, & inde tenentes qui tenent in Sockagio, *Sockmanni dici poterunt*, eo quod deputati sunt, ut videatur, tantummodo ad culturam, & quorum custodia, & maritagia ad propinquiores parentes jure sanguinis pertinebit. Et si aliquando inde de facto cspiatur homagium, quod plures contingit, non tamen habebit propter hoc Dominus capitalis custodiam, & maritagium. Quia non semper sequitur homagium, licet aliquando sequatur. M. Skene de verborum significatione, verb. *Sockmannia*, saith, that Soccage is a kinde of holding of lands, when a man is infeoffed freely without any service, ward, relieve, or marriage, and payeth to his Lord such dutie, as is called petit sergeantie, or when one holdeth land in the name of burgage, or in libera elemozina, or otherwise in blanche ferme, sive nomine alba ferme, & opponitur militi, qui tenet per servitium militare. Out of the place above named in *Braclon*, you may finde a division of Soccage, whereby it is termed either *Soccagium liberum*, or *villanum*;

num; franke or free Soccage, and base, otherwise called villenage. The former is there thus defined. *Soccagium liberum est, ubi fit servitium in denariis Dominis capitalibus, & nihil inde omnino datur ad scutum & servitium Regis.* Where I gather that to bee free soccage which payeth a certaine summe of money to the chiefe Lord in regard of some tillage, or such like, and not of any Sergeantie, or eschouage. And to this effect hee writeth also, *lib. 2. cap. 16. nn. 9. &c.* unde si tantum in denariis & sine scutagio vel seriantiis, vel si ad duo teneatur sibi dis junctione, sed ad certam rem dandam pro omni servitio, vel aliquam summam in denariis, id tenementum potest dici Soccagium: si autem superaddas Scutagium, aut servitium regale, licet ad unum obulum vel seriantiam, illud poterit dici feudum militare. This free Soccage, is also called common Soccage, anno 37. H. 8. cap. 20. Soccage in base tenure, or *villanum Soccagium*, is divided againe in *villanum Soccagium, & purum villenagium*: *Villanum Soccagium est illud, de quo fit certum servitium, idque ratione sui tenementi, non personae sua.* Purum villenagium est illud, in quo præstatetur servitium incertum et inde terminatum, ubi sciri non poterit vespere, quale servitium fieri debet mane. viz. ubi quis facere tenetur

quicquid ei praeceptum fuerit. Bratton lib. 2. cap. 8. num. 3. The old nat. brev. fol. 94. maketh three parts of this division. viz. Soccage of free tenure, Soccage of ancient tenure, and Soccage of base tenure. Soccage of free tenure is (as the booke saith) where a man holdeth by free service of 12. pence by yeere, for all manner of services, or by other services yeerely. Soccage of auncient tenure is of land of auncient Demesn, where no writ originall shall bee fiewed, but the Writ of Right, that is called secundum consuetudinem manerii. Soccage of base tenure is of thofe that hould in Soccage, and may have none other Writ, but the Monstraverunt: and such Sock-men hold not by certaine Service. And for that are they not free Sock-men. Then againe Soccage is divided into soccage in chife, and common soccage. Soccage in chife or in capit, is that which holdeth of the King, as of his Crowne. Frærog. fol. 41. Common Soccage is that, which holdeth of any other capitall Lord, or of the King by reason of some honour or manner. Ibidem. Bur-gage is also a kinde of Soccage. See Burgage.

Sockmans (Sockmanni) are such tenents as hold their lands, and tenements by Soccage tenure.

And accordingly as you have 3. kinds of Soccage, so be there 3. sorts of Sockmans, as Sockmans of franke tenure. Kitchin, fol. 81. Sockmans of ancient Demesn, old. nat. br. fol. 11. and Sockmans of base tenure. Kitch. ubi supra. But the tenents in auncient Demesn, seeme most properly to bee called Sockmans, Fitzb. nat. br. fo. 14.B. Brit. c. 66. n. 2.

Soke, anno 32. H. 8. cap. 15. & cap. 29. Of this Fleta saith thus, Soke significat libertatem curie te-nentium quam soccam appellamus. l. 1. cap. 47. q. Soke. See Roger Hoven-den, parte poster. suorum animalium. fol. 345. b. and See Soc.

Soken (Soca) see Soc. and Ham-soken. Soken is latined Soca, Regi. orig. fol. 1. a.

Sokereve seemeth to bee the Lords rent-gatherer in the Soke, or Soken, Fleta, lib. 2. cap. 55. in principio.

Sole tenant (Solus tenens) is hee or shee which houldeth onely in his or her owne right without any other joyned. For example, if a man and his wife hold land for their lives, the remainder to their son: here the man dying, the Lord shall not have Heriot, because hee dyeth not sole tenant. Kitch. fol. 134.

Solicitor (Solicitor) com-meth of the French (Soliciteur.) It signifieth in our common Law, a man imployed to follow suites depen-

depending in Lawe, for the better remembrance and more easē of Attornies, who commonly are so full of Clients and businesse, that they cannot so often attend the Serjants and Councillors, as the easē may require.

Soleit & debit. See *Debet & soleit.*

Solidata terre. See *Farding deal of land.*

Sollace, anno 43. Elizabeth. cap. 10.

Sommons, alias summons (*summonitio*) commeth of the French (*semondre* i. *vocare*) It signifieth in our common Law, as much as (*vocatio in ius*) or (*ciatio*) among the Civilians. And thence is our word (*somner*) which in French is (*semoneur*. i. *vocator monitor*) The Custumary of Normandy for our (*sommons hath semonse*) ca. 61 *summons of the Exchequer*, anno 3. Edw. 1. cap. 19. & anno 10. ejusdem, cap. 9. How summons is divided, and what circumstances it hath to bee observed. See *Fleta*, li. 6. cap. 6,7.

Soluttone feodi militis Parlamenti, and soluttone feodi Burgen. Parlamenti, be Writs whereby Knights of the Parliament may recover their allowance, if it bee denied, an. 35. H. 8. ca. 11.

Sontage. Stow. pag. 284. is a taske of fourty shillings laid upon every Knights fee.

Sorting Kersies. 3. Jacob. cap. 16.

Sothale, is a kinde of entertainment made by Bayliffes to those of their Hundreds for their gaine. Which sometime is called *Filet-table*. Of this Bracton lib. 3. tr. Etat. 1. cap. prim. hath these words : *D: Ballivis, qui faciunt cervicias suas, quas quandoque vocant (sothale) quandoque (fictale) ut pecunias extorquent ab eis qui sequuntur Hundreds sua, & Balivas suas, &c.* I thinke this should rather bee written *Scotale*. See *Scotale*.

Southvicon (*Sub vicecomes*) is the undersheriffe. *Cromptons Jurisd.* fol. 5.

Sowne, is a verbe neuter, properly belonging to the Exchequer: as a word of their Art, signifying so much, as to be leviable, or possible to be gathered or collected. For example, Estreates that sowne not, are such as the Sheriffe by his industry cannot get, and Estreates that sowne, are such as he can gather, anno 4. H. 5. cap. 2.

Speaker of the Parliament, is an Officer in that high Court, that is as it were the common mouth of the rest: and as the honourable assembly consisteth of two Houses, one called the Higher or Upper House, consisting of the King, the Nobilitie, and Kings Councell especially appointed for the same, the other termed the Lower or Common House con-

containing the Knights of the Shires, the Citizens, Barons of the Cinque Ports, and the Burgeses of Borough Townes: so bee there also two Speakers one termed the Lord Speaker of the Higher House, who is most commonly the Lord Chancelor of England, or Lord Keeper of the Great Seale: the other is called the Speaker of the Lower House. And the dueties of these two you have particularly described in *M. Vowels, alias Hookers Booke*, intituled, The order and usage of keeping the Parliament.

Speciall matter in evidence. See *Generall Issue*. And *Brooke tit. Generall issue*, and *speciall evidence*.

Spirituallties of a Bishop (*spiritalia Episcopi*) bee those profits which hee receiveth, as hee is a Bishop, and not as hee is a Baron of the Parliament. *Stawnf. pl. cor. fol. 132.* The particulars of these may be the dueties of his Visitatior, his benefit growing from ordering and instituting Priests, prestation Money, that *subsidium charitativum*, which upon reasonable cause hee may require of his Clergie. *Johannes Gregorius de Beneficiis. cap. 6. num. 9.* and the Benefit of his Jurisdiction. *Joachimus Stephanus de Jurisdic^t. lib. 4. cap. 14. num. 14.* for these reckoneth *Exactionem Cathedra-
tici, quartam Decimorum & mor-*

*tuariorum, & oblationum pen-
tationem, subsidium charitativum,
celebrationem Spuedi, collationem
viatici vel commeatua, cum Epis-
copus Romam proficisciatur, ins Hos-
pitii, Litaniam, & Processio-
nem.*

Spickenard (*spica nardi, vel
nardus*) is a medicinall herbe, whereof you may for your fur-
ther instruction reade *Gerards Herball. lib. 2. cap. 425.* The fruit or eare of this (for it bring-
eth forth an eare like Lavender) is a drug garbable, *anno 1. Jacob.
cap. 19.*

Spoliation (*spoliatio*) is a writ that lyeth for an Incumbent against another Incumbent, in case where the right of Patronage commeth not in debate. As if a Parson bee made a Bishop, and hath dispensation to keepe his Rectory, and afterward the Patron present another to the Church, which is instituted and inducted: The Bishop shall have against this Incumbent a writ of *Spoliatio. in Court Christian. Fitz-
berbert, nat. br. fol. 36.* See *Bene-
volence.*

Squally, *anno 43. Elizab. b.
cap. 10.*

Squires. See *Esquires.*

Stable stand, is one of the four Evidences, or presumptions whereby a man is convinced to intend the stealing of the Kings Deare in the Forest.

Man-

Manwood parte 2. of his Forrest Lawes. cap. 18. num. 9. the other three be these, *Dogdrawe*, *Back-beare*, *Blondie-hand*. And this *Staplestand*, is when a man is found at his standing in the Forest, with a *Crosse-bowe* benn, ready to shoot at any Deere, or with a long Bowe, or else standing close by a Tree with Grey-bounds in a lease, ready to slippe,
Idem eodem.

Stalkers, a kind of net, anno 13. R. 2. stat. i. cap. 20. & anno 17. ejusdem cap. 9.

Stallage (*Stallagium*) commeth of the French (*Estatller*. i. *merces exponere*, *expedire*, *explicare*.) It signifieth in our common Law, money paid for pitching of stalles in Faire or Market. See *Scavage*. This in *Scotland* is called *stallange*. *Skene de verbor*. signific. *Verbo Stallangiatores*. And among the Romanes it was termed (*Siliquaticum*) *a siliqua*, *primo & minimo omnium pondere apud illam nationem*.

Stannaries (*stannaria*) commeth of the Latine (*stannum*). i. *tynne*, signifying the Mines and workes, touching the getting, and purifying of this metall in *Cornewall*, and other places. Of this read *Camden*, *Britan*. pag. 119. The liberties of the *stannarie* men granted by *Edw. 1.* before they were abridged by the Statute, anno 50. *Edw. 3.* see in

Plowden, *casi Mines*. fol. 327. a.b.

Staple (*Stapulm*) signifieth this or that Towne, or Citie, whither the Merchants of *England* by common order, or commandement, did carrie their wools, wool-fels, cloathes, lead, and tinne, and such like commodities of our land for the utterance of them by the great. The word may probably bee interpreted two wayes: one taking it from (*staple*) which in the Saxon or old English language, signifieth the stay or hold of any thing. *Lamberd* in his duties of Constables. num. 4. because the place is certaine, and settled: and againe, from the French (*estape*. i. *forum vinarium*) because to those places, whither our English Merchants brought their commodities, the French would also meete them with theirs, which most of all consisteth in wines: But I thinke this latter the truer, because I find in the Mirrour of the world written in French these words. *A Calais y avoit Estape de le laine*, &c. Which is as much to say, as the staple for wools, &c. You may reade of many places appointed for this staple in the statutes of the Land, according as the Prince by his Councell thought good to alter them, from the second yeare of *Ed. 3.* ca. 9. to the fifth of *Ed.*

the sixt^h, cap. 7. what Officers the staples had belonging to them, you may see anno 27. Ed. 3. stat. 2. cap. 21.

Starre-Chamber (Camera stellata) is a Chamber at Westminster so called (as Sir Thomas Smith conjectureth, lib. 2. cap. 4.) either because it is full of windowes, or because at the first all the roofe thereof was decked with Images of guilded Starres. And the latter reason I take to bee the truer, because anno 25. Hen. 8. cap. 1. It is written the Sterred Chamber. In this Chamber every week twice during the Terme, and the very next day after Terme, is there a Court held by the Lord Chauncellor or Keeper, and other honourable personages of the Realme. This Court seemeth to have taken beginning from the Statute, anno 3. Hen. 7. ca. pri. VVhereby it is ordained, that the Lord Chauncellor and Treasurer of England for the time being, and the Keeper of the Kings Privie Seale, or two of them, calling to them a Bishop and a Temporall Lord of the Kings most Honourable Councell, and the two chiefe Justices of the Kings Bench, and Common place, for the time being, or other two Justices in their absence, should have power to call before them, and punish such misdoers, as there bee mentio-

ned. The faults that they punish, be *Routes, Riots, Forgeries, Maintenances, Embraceries, Perjuries,* and such other *Misdemeanures* as are not sufficiently provided for by the Common Law. It appeareth both by Sir Thomas Smith, lib. 2. de Rep. Anglo. cap. 4. and by experience also, that at this day, the whole number of the Princes most honourable Privie Councell, and such other Barons spirituall, or temporall as be called thither by the Prince, have place in this Court with those above-named. Of this Court thus speaketh *Master Gwin* in the Preface to his readings. It appeareth in our booke of the Termes of King Edward 4. And of the report of cates hapning under the usurpation of Richard the third, that sometime the King and his Councell, and sometime the Lord Chauncellor, and other great personages, did use to sit judicially in the place then, and yet called the *Starre-Chamber*. But for as much as be like that assembly was not ordinary, therefore the next Kings, Henry the seventh, and his sonne, Henry 8, tooke order by two severall Lawes, viz. 3. Hen. 7. cap. pri. & 21. H. 8. ca. 2. That the Chauncelor assisted with others there named, should have power to heare complaints against Retainers, Embraceours, *misdeme-
nures*

nures of officers, and such other offences, which through the power and countenance of such as doe commit them, doe lift up the head above other faults: and for the which inferiour Judges are not so meet to give correction. And because that place was before dedicated to the like service, it hath been ever since also accordingly used. Touching the officers belonging to this Court, see *Gauden*, pag. 112, & 113.

Statute (*statutum*) hath divers significations in our common law. First, it signifieth a *Decree* or *Act of Parliament*, made by the Prince and three estates, which is the bodie of the whole Realme. And though it borrow the name from that kind of Decree, which those Cities that were under the Romane Empire, made for the particular government of themselves, over and above the universall or common law of the Empire: yet in nature it commeth neerest to that which the Romanes called (*Legem*) for that, as that was made by the whole people, Noble and ignoble: so this is ordained by those, that represent the whole number, both of Prince, and subjects, one and other, through the whole Kingdome. The difference nevertheless was

this, that (*Lex*) was offered to the consideration of the people by the Magistrate of the Senate, or Consull: but the Bills or suggestions whence our Statutes spring, are offered by any of either house, and so either passed or rejected. In this signification a statute is either generall or speciall. *Coke, lib. 4 Hollands case, fol. 76. a.*

Statute, in another signification is a short speech taken for a bond: as *statute Merchant*, or *statute staple*, anno 5. H. 4. cap. 12. The reasoun of which name is, because these bonds are made according to the forme of statutes expreſſly, and particularly provided for the same; which direct both before what Persons, and in what manner they ought to bee made, *West. parte prim. symbol. lib. 2. Sect. 151.* where hee defineth a *statute Merchant* thus: a *statute Merchant* is a bond acknowledg'd before one of the Clerkes of the *statutes Merchant*, and Maior or chiefe Warden of the *City of London*, or two merchants of the said Cittie for that purpose assigned, or before the Maior, chiefe Warden, or Master of other Cities or good Townes, or other sufficient men for that purpose appointed, sealed with the seale of the Debter, and of the King, which is of two pieces, the

greater is kept by the said Maior, chiefe VVarden, &c. and the lesser peece thereof by the saide Clerks. The forme of which bond, you may see in *Fleta lib. 2. cap. 64. §. 2.* to be such; *Noverint universi me. N. de tali comitatu teneri N. in 10. marcis solvendis eidem ad festum Pent. Anno regni Regis, &c. & nisi fecero, concedo quod currant super me & Hæredes meos districcio, & pena provisa in statuta Domini Regis edito apud Westm. Datum London. tali die, anno supra dicto.* The fee for the same seale, is for Statutes knowledged in Faires; for every pound an halfe penny, and out of Faires a farding. The execution upon Statute Merchant, is first to take the body of the Debtor, if hee be lay and can be found: if otherwise, then upon his Lands, and goods. The bound is founded upon the Statute, *anno 13. Ed. prim. stat. 4.* Of this also as of the Statute Staple, see the new book of *Entries, verbo statute Merchant;* and read in *Fleta ubi supra* more touching this matter worth the reading.

Statute Staple, (to use the very words of Master *West.*) is either properly so called, or improperly. A Statute Staple properly so called is a Bond of Record knowledged before the Maior of the Staple, in the presence of one of the two

Constables of the same Staple, for which seale the fee is of every pound, if the summe exceed not a 100. pound, an halfe penny, and if it exceed an 100. pound, of every pound a farthing. And by vertue of such Statute Staple, the Creditor may forthwith have execution of the body, lands and goods of the Debtor; and this is founded upon the Statute, *anno 27. Ed. 3. cap. 9.* A Statute Staple improper, is a bond of Record, founded upon the Statute, *anno 23. H. 8. cap. 6.* of the nature of a proper Statute Staple, as touching the force, and execution thereof, and knowledged before one of the chiefe Justices, and in their absence, before the Maior of the Staple, and Recorder of London. The formes of all these bonds, or Statutes, see in *West. parte prim. symbol. lib. 2. sect. 152, 153, 154, 155.* Statutes is also used in our vulgar talke, for the Petit Sessions, which are yeerely kept for the disposing of Servants in service, by the Statute, *anno 5. Elizabeth, cap. 4.* See *Recognizance.*

Statute sessions, otherwise called Petit Sessions, are a meeting in every Hundred of all the Shires in England, where of custome they have beene used, unto the which the Constables doe repaire, and others, both householders and servantes, for the deba-

debating of differences betweene Masters and their Servants, the rating of Servants wages, and the bestowing of such people in service, as being fit to serve, either refuse to seeke, or cannot get Masters, anno 1. Eliz. cap. 4.

Statuto staple, is a Writ that lyeth to take his body to prison, and to seize upon his Lands and goods, that hath forfeited a bond, called Statute staple, *Regist. orig. fol. 151. a.*

Statutum de laborariis, is a writ Judiciall for the apprehending of such labourers, as refuse to worke according to the statute, *Reg. Judic. fol. 27. b.*

Statuto Mercatorio, is a Writ for the imprisoning of him, that hath forfeited a bond called the Statute Merchant, until the debt bee satisfied, *Register origin. fol. 146. b.* and of these there is one against Lay persons, *ubi supra*, and another against Ecclesiasticall, *148.*

Stavisaker, *staphis agria*, *vel herba pedicularia*, is a medicinable herbe, the kinde and vertues whereof, you have set forth in *Gerards Herball*, *lib. 1. cap. 130.* The seed of this is mentioned among drugs to be garbled, *anno 1. Jac. b. cap. 19.*

Stenrierie, is used for the same that *Stannaries* be, in the statute anno 4. H. 8. cap. 8. See *Stannaries*.

Sterling (*Sterlingum*) is a proper epitheton for money currant within the Realme. The name groweth from this, that there was a certaine pure Coyne, stamped first of all by the Easterlings here in England, *Stowes Annalls*, pag. 112. The which I rather beleeve, because in certaine old Monuments of our English, and broken French, I finde it written *Esterling*; so *Rog. Hoveden* writeth it, *parte poster. annalium*, *fol. 377. b. M. Skene de verborum signific. verbo Sterlingus*, saith thus: Sterling is a kinde of weight containing 32. cornes, or graines of wheat. And in the Canon Law mention is made of five shillings sterling, and of a merke sterling, *cap. 3. de arbitriis, &c. constituit, 12. de procurator.* And the sterling penie is so called, because it weighes so many graines, as I have sundry times proved by experience. And by the Law of England the penie which is called the sterling round, and without clipping, weigheth 32. graines of wheate without tailes, whereof twentie make an ounce, and 12. ounces a pound, and eight pound maketh a gallon of wine, and eight gallons make a bushell of London, which is the eighth part of a quarter. Hitherto *M. Skene. Buchanan. lib. 6.* saith, that the common people thinke it so

termed, of Sterling a Towne in Scotland. Our Lyndwood saith that it is called sterling of the bird which wee call a sterlinc, which as hee noteth, was ingrauen in one quarter of the coine so termed, cap. Item quia. de testamentis. verbo. Centum solidos. in glos.

Sewes, are those places which were permitted in England to women of professed incontinencie, for the proffer of their bodies to all commers : It is derived from the French (*Estraves*. i. *therma*, *vaporarium*, *Balneum*) because wantons are wont to prepare themselues to these vennerous acts, by bathing themselves. And that this is not new, Homer sheweth in the 8. booke of his *Odiss.* where hee reckneth hot bathes among the effeminate sort of pleasures. Of these sewes see the statute anno 1x. Henr. 6. cap. prim.

Steward. See *Seneschall* and *Stiward*, Steward of the Kings house, anno 25. Edw. 3. statute 5. cap. 21.

Stillyard (*Guilda Teutonicorum*, anno 22. H. 8. ca. 8. & anno 32. ejusdem, ca. 14.) is a place in London, where the fraternitie of the Easterling Merchants, otherwise the Merchants of *Hawne* and *Almaine*, anno pri. Ed. 6. cap. 13. are wont to have their abode. See *Geld*. It is so called

of a broad placee, or Court, wherein Steele was much sold, upon the which that house is now founded. *Nathan Chitreaus*. See *Hawne*.

Stone of wooll (*Petalme*) see *Weights*. See *Sarpler*. It ought to weigh fourteene pounds, yet in some places by custome it is more. See *Cromptons Justice of peace*, fol. 83.b.

Straife, alias *Stray*. See *Estrie*.

Straits, an. 18. H. 6. ca. 16.

Streme workes, is a kind of worke in the Stannaries : for (saith M. Camden, titulo *Cornwall*, pa. 119.) *Horum Stanariorum* sive metallicorum operum duo sunt generi : Alterum *Lode-works*, alterum *stremo-works* vocant. *Hoc in locis inferioribus* est cum Fossis agendis stannis venas seellantur & fluviorum abeos subinde deflectunt : illud in locis adiutoribus, cum in montibus piteos, quod Shafts vocant in magnam altitudinem defodiunt, & cuniculos agunt. These you may reade mentioned, an. 27. H. 8. cap. 23.

Stirk.

Strip. See *Estrapement*.

Sward, alias *steward*. (*senescalus*) seemeth to be compounded of *Steed* and *ward*, and is a word of many applications : yet alway signifieth an officer of chiefe account within the place of his sway. The greatest of these is the Lord high Steward of England, whose power (if those Antiquities

ties bee true which I have read) is next to the Kings, and of that heighth, that it might in some sort match the *Ephori* amongst the *Lacedemonians*. The custome of our Common-wealth hath upon great consideration and policie brought it to passe, that this high Officer is not appointed for any long time, but onely for the dispatch of some especiall busynesse, at the arraignement of some Noble man in the case of treason, or such like: which once ended, his Commission expireth. Of the high Steward of Englands Court, you may read *Cromptons Jurisd.* fol. 82.

I have read in an ancient Manuscript of what credit, I know not, that this Officer was of so great power in auncient times, that if any one had sought justice in the Kings Court and not found it, hee might upon complaint thereof made unto him, take those Petitions, and reserving them to the next Parliament, cause them there to bee propounded, and not onely so, but also in the presence of the King openly to rebuke the Chancellor, or any other Judge or Officer whom hee found defective in yeelding Justice. And if in case the Judge, or Officer so reprehended, did alledge, that his defect grew from the difficultie of the case, insomuch as

hee durst not adventure upon it: then the case being shewed, and so found, the Lord Steward together with the Constable of *England*, there in the prefence of the King and Parliament, might elect five and twenty persons, or more, or fewer, according to their discretion, and the case or cases in question, some Earles, some Barons, some Knights, some Citizens and Bur-gesses, which upon deliberation should set downe, what they thought just and equall: and their decree being read and allowed by Parliament, did stand as a Law for ever: furthermore, if the Chancellor or other Judge or Officer could not well approve that the delay of Justice complained of, grew from just difficultie, by reason that the case in question was formerly determined by Law or Statute: then might the Steward on the Kings behalfe, admonish him of his negligence, and will him to bee more carefull and studious. Or if there appeared malice, or corruption, then the King and Parliament was wont to remove him and assigne another of better hope to the place. Lastly, if the King had about him any such evill Councillor, as advised him to things unjust, or unanswerable to his Majestie, as tending either to the disherison of the Crowne

Crowne, publicke hurt , or destruction of the Subject. The office of the Steward was , taking to him the Constable , and other great men , with some of the Commons , and giving notice to the King of their intention , to send to that Counsellor , and will him to desist from misleading the King , yea , if need so required , to charge him to stay no longer about him , but to depart from the Court , which if hee neglected to performe , then they might send to the King , and with him to remoove him : and if the King refused , then they might take him as a publicke enemy to the King and Realme , seise on his goods and possessions , and commit his body to safe custodij , untill the next Parliament , there to be judged by the whole Kingdome : examples are brought of *Godwin Earle of Kent* in the time of King *Edward* next before the Conquerour , of *Hubert Burgh Earle* of the same Countie , in the raigne of *Henry the third* , and of *Peter Gaveston* in *Edward the seconds* dayes . But experience (as I said) hath found this Officer more dangerous then profitable , and therefore hath time taught , though not wholly to supprese him , yet to limite him to particular occasion , and to restraine his power . Then is there the Steward of the Kings most

honourable housshould , anno 24. Hen. 8. cap. 13. whose name is changed to the name of great Master , anno 32. ejusdem , cap. 39. But this Statute was repealed by anno prim. Mar. 2. Parl. cap. 4. and the office of the Lord Steward of the Kings housshould revived : where you may at large reade divers things touching his Office . As also in *Fitz. nat. brev.* fol. 241. B. Of this Officers ancient power , reade *Fleta* , lib. 2. cap. 3. There is also a Steward of the *Marshalsea* , pl. cor. fol. 52. & anno 33. Hen. 8. cap. 12. To bee short , this word is of so great diversity , that there is not a Corporation of any accompt , or house of any honour , almost through the Realme , but it hath an Officer toward it of this name . A Steward of a mannor , or of a housshould , what hee is or ought to be , *Fleta* fully describeth . lib. 2. cap. 71. & 72.

Stranger , commeth of the French (estranger. i. alienare.) It signifieth in our Language generally a man borne out of the Land or unknowne : but in the Law , it hath an especiall signification for him that is not privie , or a partie to an act : as a Stranger to a judgement : old. nat. brev. fol. 128. is he to whom a judgement doth not belong . And in this signification it is directly contrary to (partie) or (privie)

(privie.) See Privie.

Submarshall, (submarchallus) is an Officer in the Marshal-sea, that is, Deputy to the chiefe Marshall of the Kings house, commonly called the Knight Marshall, and hath the custody of the prisoners there. *Cromptons Jurisd. fol. 104.* He is otherwise called Under-marshall.

Subpœna, is a writ that lyeth to call a man into the Chancerie, upon such case onely, as the common Law faileth in, and hath not provided for: so as the partie, who in equity hath wrong, can have none ordinary remedy, by the rules and course of the common Law, *West. parte 2. symbol. titulo Proceedings in Chancerie, Sect. 18.* where you may reade many examples of such cases, as *Sub pœna* lyeth in. There is also a *Sub pœna ad testificandum*, which lyeth for the calling in of witnesses to testifie in a cause, as well in Chancerie, as in other Courts. And the name of both these proceed from words in the writ, which charge the partie called to appeare at the day and place assignd, *Sub pœna centum librarum, &c.* I find mention of a common *Sub pœna* in *Cromptons Jurisd. fol. 33.* which signifieth nothing else but such a *Sub pœna*, as every common person is called by into the Chancerie: whereas any Lord

of Parliament is called by the Lord Chancellors Letters: giving him notice of the suit intended against him, and requiring him to appeare. *Crompton, eodem.*

Subsidie (Subsidium) commeth of the French (*Subside*) signifying a taxe or tribute assesse by Parliament, and granted by the Common to be levied of every subject, according to the value of his Land or Goods after the rate of foure Shillings in the pound for Land, and two Shillings eight pence for Goods, as it is most commonly used at this day. Some hold opinion, that this Subsidie is granted by the Subject to the Prince, in recompence or consideration, that whereas the Prince of his absolute power, might make Lawes of himselfe, hee doth of favour admit the consent of his Subjects therein, that all things in their owne confession may bee done with the greater indifferentie. The manner of assesseing every mans Lands or Goods, is this: First, there issueth a Commission out of the Chancerie to some man of honour or worship in every Countie, by vertue thereof to call unto them, the head Constables or Bailiffes of every Hundred, and by them the Constable and three or foure of the substantiallest

house-holders in every Towne within their Hundred at a day certaine : which men so called , or so many of them, as the Commissioners thinke good to use, doe rate the Inhabitants of their owne Towne, in such reasonable manner , as they finde meet, yet by the discretion of the said Commissioners. And then every man after his value set downe, must at his time pay to the Collectour appointed, after the rate aforesaid, yet in ancient time, these Subsidies seeme to have beeene granted both for other causes, as in respect of the Kings great travaile, and expences in warres : or his great favours towards his Subjects : as also in other manner than now they be : as every ninth Lambe, every ninth Fleece, and every ninth Sheafe, anno 14. Ed. 3. stat. prim. cap. 20. And of these you may see great variety in *Rastals Abridgement.* tit. Taxes, Tenthys, Fifteenthys, Subsidius, &c. whence you may gather that there is no certaine rate, but even as the two houses shall thinke good to conclude. Subsidie is in the statute of the Land, sometime confounded with custome, anno 11. H. 4. cap. 7. See *Benevolence.*

Surety of peace, (securitas pacis) is an acknowledging of a Bond to the Prince, taken by a competent Judge of Record, for the kee-

ping of the peace, *Lamberds Eirenarcha, lib. 2. cap. 2. pag. 77.* This peace may a Justice of peace command, either as a Minister, when hee is willed so to doe by a higher authority, or as a Judge, when hee doth it of his owne power derived from his Commission. Of both these see *Lamberds Eirenarcha, lib. 2. cap. 2. pag. 77.* See *Peace.* See *Suppli-
cavit.*

Suffragan (Suffraganem) is a titular Bishop ordined , and assited to aide the Bishop of the Diocesse in his Spirituall fuction. c. *Suffraganeus. Extra de electione.* For the Etymologie, *Suffraganei dicuntur, quis corum suffragiis cause Ecclesiastice judicantur. Joach. Stephanus de Juris-
dict. lib. 4. cap. 16. num. 14.* It was enacted anno 26. H. 8. cap. 14. that it should bee lawfull to every Diocesan at his pleasure to elect two sufficient men within his Diocesse, and to present them to the King , that hee might give the one of them such Title, Stile, Name, and dignitie of sease in the said Statute specified, as he should thinke convenient.

Suyte (Secta) commeth of the French (Suite. i. affectatio, consecutio, sequela, comitatus) It signifieth in our common Law, a following of another, but in divers lenses, the first is a suite in

in Law, and is divided into suite reall, and personall. *Kitchin*, fol. 74. which is all one with action reall and personall. Then is there suite of Court, or suite service ; that is an attendance which a Tenant oweth at the Court of his Lord. *Fitz. nat. brev. in Indice. verbo Suite. suyte service and suyte reall*, anno 7. H. 7. cap. 2. The new Expositor of Law Termes , maketh mention of foure sorts of suites in this signification. Suite covenant, suite custome, suite reall, and suite service. *Suite covenant*, hee defineth to bee, when your Ancestour hath covenanted with mine Ancestour , to sue to the Court of mine Ancestors. *Suite custome*, when I and mine Ancestors have beene seised of your owne, and your Ancestors suite, time out of minde, &c. *Suite reall*, when men come to the Sheriffes Turne , or Leete , to which Court all men are compelled to come , to know the Lawes, so that they may not bee ignorant of things declared there, how they ought to bee governed. And it is called reall, because of their allegiance. And this appeareth by common experience, when one is sworne : his oath is that hee shall bee a loyall and faithfull man to the King. And this suite is not for the land that hee holdeth within the Countie,

but by reason of his person and his abode there, and ought to bee done twice a yeere : for default whereof hee shall bee amerced and not distrained. I thinke this should bee called rather regall or royall, because it is performed to the King for (royall.) The French word in the usuall pronunciation commeth neere to reall , the letter (o) being almost suppressed. See *Leete, Suyte service*, is to sue to the Sheriffes Turne or Leete, or to the Lords Court from three weekes to three weekes by the whole yeere. And for default thereof a man shall bee distrained, and not amerced. And this suite service is by reason of the tenure of a mans Land. Then doth suite signifie the following of one in chace, as fresh suite. *West. 1. cap. 46. a. 3. Ed. 1.* Lastly, it signifieth a Petition made to the Prince, or great personage.

Suyte of the Kings peace (seita pacis Regis) anno 6. R. 2. stat. 2. cap. pri. & anno 21. ejusdem. cap. 15. & anno 5. Hen. 4. cap. 15. is the perswying of a man for breach of the Kings peace, by treasons, insurrections, rebellions, or trespasses.

Summonses, is a Writ Judiciall of great diversity, according to the divers cases wherein it is used, which see in the Table of the Register Judiciall.

Summoner (*summonieor*) signifieth one used to call or cite a man to any Court. These by the common Law, ought to bee *boni*, that is by *Fleta* his Judgement, *liberi homines, & ideo boni, qui terras tenentes, quod sint coram talibus Justiciariis ad certos diem, & locum secundum mandatum Justiciariorum vicecomiti directum, parati inde facere recognitionem.* lib. 4. cap. 5. §. Et cum.

Summons (*Summonitio*) see *Summons. Common Summons. Martb. cap. 18. anno 52. Hen. 3. ist.*

Summons in terra petita. Kitch. fol. 286. is that summons which is made upon the Land, which the party at whose suit the summons is sent forth, seeketh to have, *Summons ad warrantizandum. Dryer, fol. 69. nū. 35.*

Sumage (*Sumagium*) seemeth to bee tolle for carriage on horsebacke, *Crompton, Jurisd. fol. 191.* For where the Charter of the Forest, *cap. 14.* hath these words: for a horse that beareth loads every halfe yeere, a halfe penny: the Booke called *Pupilla oculi*, useth these words: *pro uno equo portante summagium, per dimidium annum ob'lum.* It is otherwise called a Seame. And a Seame in the VVesterne parts is a Horse-load.

Superoneratio pasturæ, is a writ Judiciall that lyeth against

him who is impleaded in the County for the over-burdening of a Common with his cattell, in case where he is formerly impleaded for it in the County, and the cause is removed into the Kings Court at *Westm.*

Supersedeas, is a writ which lyeth in divers, and sundry cases, as appeareth by the Table of the Register originall, and the Judicall also, and by *Fitzb. nat. bre. fol. 236.* and many other places noted in the Index of his Booke, verbo *Supersedeas*. But it signifieth in them all a command, or request to stay or forbear the doing of that, which in appearance of Law were to bee done, were it not for the cause, whereupon the writ is graunted. For example: a man regularly is to have surety of peace against him, of whom hee will sweare that hee is afraid, and the Justice required hereunto cannot deny him. Yet if the party be formerly bound to the peace, either in Chauncery, or elsewhere: this writ lyeth to stay the Justice from doing that, which otherwise hee might not deny.

Superstatutum, Edw. 3. vers servantes and labourers, is a writ that lyeth against him, who keepeth my servant departed out of my service against Law. *Fitz. nat. fol. 167.*

Super

Super statuto de Yorke quo nul sera vitellor, &c. is a writ lying against him, that occupieth viteling either in grosse or by re-taile in a Citie, or Borough Towne, during the time hee is Major, &c. *Fitzb. natur. bre. fol. 172.*

Super statuto, anno pri. Edw. 3. cap. 12. & 13. is a writ that lyeth against the Kings Tenent holding in chiefe, which alienateth the Kings Land without the Kings license. *Fitzb. nat. folio 175.*

Super statuto factio pour Seneffall & Marshall de Roy, &c. is a writ lying against the Steward, or Marshall for holding plee in his Court of Free-hold, or for trespass, contracts not made within the Kings household. *Fitzherbert nat. brev. folio 241.*

Super statuto de Articulis Clericis, cap. 6. is a writ against the Sheriffe, or other Officer, that constraineth in the Kings high-way, or in the glebe Land anciently given to Rectories, *Fitz. nat. brev. fol. 173.*

Super prerogativa Regis, cap. 3. is a writ lying against the Kings widdow for marrying without his license. *Fitzherbert, nat. bre. fol. 174.*

Supplicavit; is a writ issuing out the Chancerie for taking the surety of peace against a man. It

is directed to the Justices of peace of the County, and the Sheriffe: and is grounded upon the Statute, *anno pri. Edw. 3. cap. 16.* which ordaineth that certaine persons in Chancerie shall bee assigned to take care of the peace. See *Fitzb. nat. bre. fol. 80.* This writ was of old called *Breve de minis*, as *Master Lamberd* in his *Eurenarth*, noteth out of the Register originall, fol. 88.

Sur ou in vita, is a writ that lyeth for the heire of that woman, whose husband having alienated her Land in fee, shée bringeth not the writ *Cui in vita* for the recovery of her owne Land, for in this case her Heire may take this writ against the Tenent after her decease. *Fitzherbert, nat. bre. fol. 193. B.*

Surgeon, commeth of the French (*Chirurgeon*, i. *Chirurgus, vulnerarius*) signifying him that dealeth in the mechanicall part of Phyfiche, and the outward cures performed with the hand. The French word is compounded of two Greeke words (*χεὶς*, i. *manus*, and *τέρατον*, i. *opus*.) And therefore are they not allowed to minister inward medicine. See Statute 32. Hen. 8. cap. 4. and *Master Powltons new Abridgement, titulo Surgeons.*

Surcharger of the Forrest, is he that doth common with more Beasts in the Forrest, than hee

hath right to common withall.
Manwood parte 2. of his Forrest
Lawes, cap. 14. nū. 7.

Surplusage (*surplusagium*)
commeth of the French (*surplus*
i. *corollarium, additamentum*) It
signifieth in the common Law, a
superfluity or addition more than
needeth, which sometime is a
cause that a Writ abateth. *Brooke,*
titulo, Nugation & Superfluity,
fol. 100. *Plowden casu Dive, contra Maningham*, fol. 63. b. It is
sometime also applyed to matter
of account, and signifieth a greater
disburlement, than the charge
of the accomptant amounteth
unto.

Surrejoyneder, is thus defined by
*West. parte 2. symb. titulo Suppli-
cations*, sect. 57. A *Surrejoyneder*,
is a second defence of the Plain-
tiffes action, opposite to the *De-
fendants Rejoynder*. And there-
fore (as hee saith) *Hotoman* calleth it *TriPLICATIONEM*, que est se-
cunda actoris defensio, contra Rei
duplicationem opposita. Not *Hoto-
man* onely calleth this *triplicatio-
nem*: but the Emperour himselfe.
De Replicationibus, libro 4. Institut.
titulo 14.

Surrender (*sursum reddito*) is
an Instrument testifying with apt
words, that the particular Tenent
of Lands or Tenements for life or
yeeres, doth sufficiently consent
and agree, that hee which hath
the next or immediate Remain-

der, or Reversion thereof, shall
also have the particular estate of
the same in possession: and that he
yieldeth, and giveth up the same
unto him. For every surrendre
ought forthwith to give a posses-
sion of the things surrendred, *West.*
parte 1. lib. 2. Sect. 503. where you
may see divers presidents. But
there may be a surrendre without
writing. And therefore there is
said to bee a surrendre in deed, and
a surrendre in Law. A surrendre
in deed, is that which is really
and sensibly performed. Surren-
der in Law is in intendment of
Law by way of consequent, and
not actuall, *Perkins Surrender*, fol.
606. & seqq. as if a man have a lease
of a ferm, and during the terme, he
accept of a new lease, this act is in
Law a surrendre of the former,
Coke, vol. 6. fol. 11. b.

Surfise (*supersisæ*) anno 32. H.8.
cap. 48. seemeth to be an especiall
name used in the Castle of Dover,
for such penalties, and forfei-
tures, as are laid upon those that
pay not their duties or rent for
Castleward at their dayes, an. 32.
H. 8. cap. 48. *Braston* hath it in a
generall signification, *lib. 5. tract.*
3. *cap. 1. nū. 8.* and *Fleta*; *lib. 6. c.*
3. in prin.

Surveiour (*supervisor*) is com-
pounded of two French words
(*sur i. super*) and *veior* i. *cernere,*
intueri, despicere, prospicere, videre)
It signifieth in our common Law,
one

one that hath the overseeing or care of some great personages, lands, or workes. As the *Surveiour* generall of the Kings manors, *Cromptons Jurisd.* fol. 106. And in this signification it is taken, anno 33. H. 8. cap. 39. where there is a Court of Surveyours erected. And the Surveyour of the Wards and Liveries, *West. parte 2. symbologr. titulo Chancerie. Sect. 136.* which Officer is erected anno 33. H. 8. cap. 22. who is the second Officer by his place in the Court of Wards and Liveries, assigned and appointed by the King. His Office seemeth especially to consist in the true examination of the Lands belonging to the Kings wards, that the King be not deceived. At the entrance into his Office, he taketh an oath ministred unto him by the Master of that Court : which see anno 33. H. 8. cap. 39.

Surveyor of the Kings Exchange, anno 9. H. 5. stat. 2. cap. 4. was an Officer, whose name seemeth in these days to be changed into some other. For I cannot learne that there is any such now.

Survivour, is compounded of two French words (*sur i. super*) and (*viure. i. etatem agere, vivere*) whence also commeth the compound (*surviure. i. superesse*) It signifieth in our common Law, the longer liver of two joyned tenents. See *Brooks, titulo Joyn. te-*

nents, fol. 33. or of any two joyned in the right of any thing.

Suspension (*suspensio*) is used for a temporall stop of a mans right, and differeth from extinguishment in this, that a Right of Estate suspended reviveth againe, but extinguished it dieth for ever, *Broke, titulo Extinguishment and Suspension, fol. 314.* Suspension is also used in our common Law, sometimes as it is used in the Canon Law, *prominori Excommunicatione.* As anno 24. H. 8. cap. 12. See *Excommunication.*

Suspirall, seemeth to bee a Spring of water passing under the ground, toward a Conduit or Cesterne, anno 35. H. 8. cap. 10. and to be derived from the Latine (*suspirare*) or the French (*souffrir. i. ducere suspiria.*) And indeed the word it selfe is French : for (*susppiral*) in that tongue signifieth (*spiramentum caverna*) the mouth of a Cave or Den : or the tunnell of a Chimney.

Swainmot, alias *Swainmote*, (*Swainmotum*) signifieth a Court touching matters of the Forest kept by the Charter of the Forest, thrice in the yeere : anno 3. Hen. octav. cap. 18. it is called a Swaine-mote : what things be inquirable in the same, you may reade in *Cromptons Jurisd.* fol. 180. who saith that this Court of Swaine-mote is as incident

cident to a Forrest, as the Court of Pie-powder is to a Faire: with whom agreeth M. *Manwood*, *parte pri. of his Forrest lawes*, pag. 144. The word seemeth to bee compounded of (*Swain*) and (*mot*) or (*Gemot*.) For Swaine, as M. *Manwood* saith *ubi supr. pag. 111.* in the Saxons tongue signifieth a *Bockland* man, which at this day is taken for a Charterer, or Freeholder: and (*Gemot*) as M. *Lambert* saith in his explication of Saxon words, *verbo Conventus*, is *Conventus*, whereupon it is to be noted, as he saith in the same place, that the Swainemote is a Court of Freeholders within the Forest. Of the which you may reade him at large, pag. 110. &c. usque 122.

T . A.

Tabling of *Fines*, is the making of a Table for every County, where his Majesties writ runneth, containing the contents of every Fine, that shall passe in any one Terme, as the name of the Countie, Townes, and places, wherein the lands or tenements mentioned in any Fine, doe lye, the name of the Plaintiffe and Deforceant, and of every manner named in the Fine. This is to be done properly by the Chirographer of Fines of the

Common plees: who the first day of the next Terme after the ingrossing of any such Fine, shall fixe every of the said Tables in some open place of the Court of Common Plees: and so every day of the said Terme during the sitting of the said Court. And the said Chirographer shall deliver to the Sheriff of every Countie, his Under-sheriff or Deputie, faire written in Parchment, a perfect content of the Table so to bee made for that Shire, in the Terme that shall bee next before the Assises to be holden in the same Countie, or else in the meane time betweene the Terme, and the said Assises, to bee set up the first day, and every day of the next Assises, in some open place of the Court, where the Justices of Assises then shall sit, to continue there so long, as they shall sit in the said Court. If either the Chirographer, or Sheriff faile herein, he forfeitteth five pounds. And the Chirographers fee for every such Table is foure pence, anno 23. *Elizabeth*, cap. 3. This saith *West*, parte 2. *Symbol. titulo Fines. Sect. 130.*

Taile (*Tallum*) commeth of the French (*Taile. i. Sectura*) or the verb (*tailler. i. scindere*) signifying in our common law two severall things, both grounded upon one reason, *Plowden, casu Willion,*

lion, fol. 251. a. b. First it is used for the fee, which is opposite to fee simple: by reason that it is so (as it were) minced, or pared, that it is not in his free power to be disposed of him which owneth it: but is by the first giver cut or divided from all other, and tyed to the issue of the Donee. *Coke, lib. 4. in protomio.* And this limitation, or taile, is either generall, or speciall. *Taile generall* is that, whereby lands or tenements are limited to a man, and to the heires of his bodie, begotten. And the reason of this terme is, because how many soever women, the tenent holding by this title, shall take to his wives, one after another in lawfull matrimonie; his issue by them all, have a possibilitie to inherit, one after the other. *Taile speciall*, is that whereby lands, or tenements be limited unto a man and his wife, and the heires of their two bodies begotten: because if the man bury his wife before issue, and take another, the issue by this second wife cannot inherit the land, &c. Also if land should be given to a man and his wife, and to their sonne and heire *John*, for ever: this is taile especiall. See more of this in fee. And *Littleton, lib. pri. cap. 2.* and the new booke of Entries, verbo *Taile*. *Taile* in the other signification, is that

which we vulgarly call a *Tallie*. For it is *une taille de bois*, a cloven piece of wood to nicke up an account upon, for in the Statute, anno 10. *Ed. pri. cap. 11.* and anno 27. *ejusdem, stat. pri. cap. 2.* it is termed a *Taile*, and anno 38. *Edw. 3. cap. 5.* And so in Broke his Abridgement, *titulo Taile d'Exchequer, fol. 247.* See *Tailes*.

Tailes (tallie) are in these dayes called *Talleyes*, well knowne what they be. Of these reade in our statutes two sorts, to have beene usuall in the Exchequer for a long continuance. The one is termed *tayles of debt*, anno 1. *Rich. 2. cap. 5.* which are a kind of acquittance for debt paid in to the King. For example, the Universitie of Cambridge payeth yeerely ten pounds, for such things as are by their Charter granted them in fee ferme, five pounds at the Annunciation, and five at Michaelmas. Hee that payeth the first five pounds, receiveth for his discharge a *taile* or *tally*, and hee that payeth the other five receiveth the like. With both which, or notes of them, he repaireth to the Clerke of the Pipes office, and there, in stead of them, receiveth an acquittance in parchment for his whole discharge. Then be there also mentioned *Tayles of reward*, anno 27. *H. 8. cap. 11.*

& anno 33. & 34. ejusdem, cap. 16. and *anno 2, & 3. Ed. 6. cap. 4.* And these seeme to be tailes, or talies of allowances, or recompence made to Sheriffes for such matters, as to their charge they have performed in their office, or for such monies, as they by course have cast upon them in their accounts, but could not levie them where they were due. And these, as it seemeth by the said statute, *anno 27. H. 8. cap. 11.* were of old granted in the Exchequer unto them, upon warrant made to the Treasurer and Chamberlaines there, by the Clerkes of the Signet upon Bill assignd by the King. But sithence the statute, *anno 2, & 3. Edw. 6. cap. 4.* What the course in this case is, I am not so well informed. Onely I heare, that for some counties these tailes be still in use, and that the warrant commeth now from the Auditour of the Receites, unto those that make these talies. And that the Sheriff with them proceedeth to those who take his finall account, and there hath his allowance accordinglie.

Taylage (tallagium) alias, Tallage, commeth of the French (*taille*) which originally signifieth a piece cut out of the whole: and metaphorically is used for a share of a mans sub-

stance payed by way of tribute. It signifieth with us, a rolle, or taxe, as *anno prim. Ed. 2. cap. unic.* And *Stowes Annals*, pag. 445. Thence commeth *Tailagiers* in Chaucer for taxe, or toller-gatherers.

Taint (Attinctus) commeth of the French (*teinct. i. infectus, tinctus*) and signifieth either Substantively, a conviction, or Adjectively a person convicted of felonie or treason, &c. See *Attaint.*

Tales, is a Latine word of knowne signification: It is used in our common law, for a supply of men empaneled upon a Jary or Enquest, and not appearing, or at their apparence, challenged by the partie, or either partie, if there be two, as not indifferent, for in this case, the Judge upon petition granteth a supply to be made by the Sheriff of some men there present, equall in reputation to those that were empaneled. And heereupon the very act of supplying is called a *Tales de Circumstantibus*. This supply may be one or more, and of as many as shall either make default, or else bee challenged by each partie, *Stawford, pl. cor. lib. 3. cap. 5.* Howbeit, hee that hath had one Tales, either upon default or challenge: though hee may have another,

ther, yet hee may not have the later to containe so many as the former, for the first Tales must bee under the principall panell, except in a cause of Appeal, and so every Tales lesse then other, untill the number be made up of men present in Court, and such as are without exception to the partie, or parties. Of this see *Stawnford more at large ubi supra*: where you may find some exceptions to this generall rule. These commonly called (*Tales*) may in some sort, and indeed are called (*Meliores*) *viz.* when the whole Jurie is challenged, as appeareth by *Brooke, titulo. Octo tales & auier tales, fol. 105.* In whom you may likewise reade many cases touching this matter.

Tales, is the proper name of a booke in the Kings bench office, *Cooke, lib. 4. fol. 93. b.*

Tallage. See *Taylage*.

Talsbide. See *Talwood*.

Talwood, *vide anno 34. & 35.*

Henricus octavus, capit. 3. & anno 7. Edw. 6. cap. 7. & 43. El. cap. 14. T alsbide, ibidem. It is a long kind of shide riven out of the tree, which shortned is made into billets.

Tartaron, anno 12. Edward 4. cap. 3. & anno 4. Henry 8. cap. 6.

Tasels, anno 4. Edward 4. cap. 1. is a kind of hard burre

used by Clothiers and Cloath-Workers in the dressing of Cloath.

Taske, alias Taxe, by *M. Camden* following the authoritie of *Doctor Powell* (whom hee greatly commendeth for his diligence in the search of Antiquities) is a British word signifying tribute. *Camden Britan. pag. 304.* And it seemeth, it is such a kinde of tribute, as being certaintely rated upon every Towne, was wont to bee yearly paide. See *Gild*, and the places there cited out of *Master Cambden*. Now it is not paid, but by consent given in Parliament, as the Subsidie is. And it differeth from Subsidie in this, that it is alway certaine, accordingly as it is set downe in the Chequer booke, and levied in generall of every Towne, and not particularly of every man. Lastly, it is a fifteenth of that substance, that every Towne was first rated at by the number of Hides of Land in the same. Whereupon it is also called a fifteenth, *vide anno 14 Edw. 3. statut. 1. cap. 20.* For whereas *Master Crompton in his jurisdictions, fol. 14. cap. 7. I take his meaning there to bee, that though the taske in the* whole

whole were at the first by the Prince proportioned by the land: Yet the Townes men among themselves to make up that summe, are at these dayes sometime valued by goods. See *Fifteenib.* It seemeth that in auncient times, this taske was imposed by the King at his pleasure, but *Edward the first*, anno 25. of his raigne, bound himselfe, and his successors from that time forward, not to levie it, but by the consent of the Realme, anno 25. Ed. pri. cap. 5. The word *Taske* may be thought to proceed from the French (*Taux*, alias *Taxe*. i. *estimatio*, *preium*) for wee call it also *Taxe*: but over curiously to contend in these derivations, may seeme frivolous, considering that many words are commoa to divers peoples.

Telonium, or *Breve essendi quietum de Telonio*, is a writ lying for the Citizens of any Cittie, or Bourgeses of any Towne that have a Chasser, or prescription to free them from Tolle, against the Officers of any Towne, or Market constraining them to pay Tolle of their Merchandise, contrary to their said graunt or prescription. Fitzb. nat. br. fol. 226. *Hotoman*, lib. 2. *commentariorum in feuda*, cap. 56. vers. *Vestigalis*, hath these words: *Telonia autem dicuntur publicanorum stationes in quibus vestigalia*

recipiunt: sed apud istius generis scriptores, Telonium dicuntur vectigal, quod pro pontium aut riparum munitione penditur: & plerumq; à principibus solius exactio causâ, imperatur.

Team, alias *Theam*, is an old Saxon word, signifying a Royalty granted by the Kings Charter, to a Lord of a manour, *Bracton*, lib. 3. tract. 2. cap. 8. of this *Saint Edwards lawes*, nro. 25. say thus. *Quod si quisquam aliquid interciet (id est, penes alium defendat) super aliquem, & intercidatus, non poterit warantum suum habere, erit forisfactura sua, & Justicia similiter de calumniatore, si defecerit. M. Skene de verborum significacione, verbo *Theam*, saith, that it is a power to have servants and slaves, which are called *nativi, bondi, vilani*, and all Baronies infeoffed with *Theam*, have the same power. For unto them all their bondmen, their children, goods, and cartels, properly appertaine: so that they may dispose of them, at their pleasure. And in some old authentike bookees it is written. *Theam est potestas habendi nativos, ita quod generatiq; villanorum vestrorum, cum eorum catallis, ubi eunq; inveniantur, ad vos pertinet. Theam commeth from *Than*, i. servus, and therefore sometime signifieth the bondmen, and slaves, according to an old statute and law. De curia de The-**

*me. Quod si quis teneat curiam de
Theme, & illa querela in illa curia
moveretur, ad quam Theme vocatur :
non debet illa curia elongari, sed ibi-
dem determinari, & omnes Theme
ibi compareant.* Which is under-
stood of the question of libertie,
when it is in doubt, whether any
perfon bee a bond man or free
man. Which kinde of proces
should not be delayed, but sum-
marily decided. And the new
Expositor of law termes, spea-
keth to the like effect, *verbo
Them.* I read it also in an old pa-
per written by an Exchequer man
thus translated: *Theam. i. propa-
go villanorum.*

Teller, is an officer in the Ex-
chequer, of which sort there be
foure in number. And their of-
fice is, to receive all monies due to
the King, and to give to the Clerk
of the Pell a bill to charge him
therewith. They also pay to all
persons, any money payable unto
them by the King, by warrant
from the Auditour of the receipt.
They also make weekly and
yearly booke, both of their re-
ceipts and Payments, which they
deliver to the Lord Treasurer.

Templars (Templarii) See
Knights of the Temple. These
whilst they flourished here in
England, which seemeth to be all
that time betweene Henry the se-
conds dayes, untill they were
suppreſſed, had in every nation a

particular Gouvernor, whom
Bract. calleth *Magistrum milizie
Templi. lib. 1. c. 10.* Of these reade
M. Cameden in his Br. p. 320. See
Hospitalers.

*Temporalities of Bishops (Tempora-
lia Episcoporum)* be such reve-
nues, lands, and tenements, as Bi-
shops have had laid to their Sees
by the Kings and other great per-
sonages of this land from time
to time, as they are Barons, and
Lords of the Parliament. See *Spi-
ritualties of Bishops.*

Tend, seemeth to signifie, as
much as to endeavour, or offer, or
shew forth, to tend the estate of
the party of the Demandant, *Old.
nat. br. fol. 123. b.* to tend to tra-
vers. *Statut. prerog. fol. 96.* to
tend an avertment. *Brit. cap. 76.*

Tender, seemeth to come of the
French (*Tendre. i. tener, delicatus*)
and being used adjectively, signi-
fieth in English speech, as much
as it doth in French. But in our
common law, it is used as a verb:
and betokeneth as much, as care-
fully to offer, or circumspectly to
endeavour the performance of
any thing belonging unto us: as
to tender rent, is to offer it at the
time and place where and when
it ought to be paid. To tender his
law of *non summons.* *Kitchin. fo.
197.* is to offer himselfe ready to
make his law, whereby to prove
that hee was not summoned. See
law. See *make.*

Tenementis legatis, is a Writ that lyeth to London, or other corporation, where the custome is, that men may demise tenements by their last will, as well as their goods and catels, to whom they list, for the hearing of any controversie touching this matter, and for the rectifying of the wrong, *Regist. orig. fol. 244. b.*

Tenant, alias, tenant, (tenens) commeth either of the Latine (*tenere*) or of the French (*tenir*) and signifieth in our common Law, him that possesseth lands, or tenements by any kinde of right, be it in fee, for life, or for yeares. This word is used with great diversite of Epithites in the Law, sometime signifying or importing the efficient cause of possession, as *Tenant in Dower*: which is shee, that possesseth land, &c. by vertue of her Dower. *Kitchin, fol. 160.* *Tenant per statutum Merchant.* *Idem fol. 172.* that is, hee that holdeth land by vertue of a Statute forfeited unto him. *Tenant in frank mariage.* *Kitchin, fol. 158.* viz. hee that holdeth land or tenement by reason of a gift thereof made unto him upon mariage, betweene him and his wife. *Tenant by the courtesie.* *Idem, fol. 159.* i. hee that holdeth for his life by reason of a child begotten by him of his wife being an inheritrix, and borne alive. *Ten-*

nent per elegit. *Idem, fol. 172.* i. hee that holdeth by vertue of the writ termed *Elegit*. *Tenant in mortgage,* *Idem, fol. 38.* is hee that holdeth by vertue of a mortgage or upon condition, that if the lessour pay so much money at such a day, that hee may enter, and if not, that the leasee shall have a fee simple, fee tayle, or free hould. Sometime these Epithites import the manner of admittance: as *Tenant by the verge* in ancient demesn. *Idem, fol. 81.* is hee that is admitted by the rod in a Court of ancient demesn. Sometime the evidence, that hee hath to shew for his estate: as *Tenant by copie of Court rolle*, which is one admitted Tenant of any lands, &c. within a manour, that time out of the memory of man, by the use and custome of the said manour have beeene demisable, and demised to such as will take the same in fee, fee tayle, for life, yeares, or at will, according to the custome of the said manor. *West. parte prim. sym. lib. 2. sect. 6; 6.* whom read more at large. Againe, *Tenant by charter*, is he that holdeth by feofment in writing or other deed. *Kitchin, fol. 57.* Sometime these Epithites signifie that duetie which the tenant is to performe by reason of his tenure. As *Tenant by Knights service*, *Tenant in socage*, *Tenant in burgage*, *Tenant in*

in frank fee, tenant in villenage. Sometime they import the estate of the tenant, or his continuance in the land, as tenant in fee simple, *Kitchin.* fol. 150. Tenant in fee taile, *Idem* fol. 153. Tenant for life, and tenant for yeeres: *Idem* fol. 163. Tenant at the will of the Lord according to the custome of the manner. *Idem.* fol. 132. & 165. Tenant at will by the common law. *Idem, eodem.* Tenant upon sufferance. *Idem,* fol. 165. Tenant of state of inheritance, *Stawnfrod, prærog.* fol. 6. Sometime they containe a relation toward the Lord, of whom he holdeth as tenant in chiefe, i. hee that holdeth of the King in the right of his Crowne, *Fitzber. nat. br.* fol. 5. F. Tenant of the King, as of the person of the King. *Idem, eodem.* or as of some honour: *eodem:* Very tenant, i. he that holdeth immediately of his Lord, *Kitchin,* fol. 99. For if there be Lord *Mesne*, and Tenant, the Tenant is very Tenant to the *Mesne*, but not to the Lord above. *Tenant paravaile, pl. cor.* fol. 197. & *Fitzb. nat. br.* fol. 136. D. is the lowest Tenant, and farthest distant from the Lord Paramount. It seemeth to be Tenant *Per availe.* See *Dyers Commentaries,* fol. 25. num. 156. No tenant in right to the Lord, but tenant as for the avowrie to be made, *Littleton,* fol. 96. Sometime they

have a relation betweene Tenants, and Tenents in severall kinds, as joyn't Tenents, i. they that have equall right in lands and tenements, and all by vertue of one title, *Littleton, lib. 3. cap. 3.* Tenents in common, bee they that have equall right, but hold by divers titles, as one or more by gift or descent, and others by purchase. *Idem, eodem, cap. 4.* Particular tenant, *Stawnf. prærog.* fol. 13. that is, hee which holdeth onely for his terme, as tenant in dower, tenant by the courtesie, or otherwise for life, *West. parte 2. Symbol. titulo Fines.* Sect 13. G. See anno 32. H. 8. ca. 31. and *Coke* in *Sir William Petlams case, lib. 1. fol. 15.* a. they be termours for yeares or life. See *Plowden casu Colthirſt,* fol. 23. b. Sole tenant, *Kitchin,* 134. i. hee that hath none other joyned with him. If a man and his wife hold for both their lives, and the man dieth, hee dieth not sole tenant, *Idem, eodem.* Severall tenant, is opposite to joyn't tenants, or tenants in common. See *Severall tenencie.* Tenant *al præcipe,* is hee, against whom the writ (*Præcipe*) is to be brought. *Cokes Reports, lib. 3. The case of Fines,* fo. 88. a. Tenant in demesn, anno 13. Ed. 1. cap. 9. anno 32. H. 8. cap. 27. hee that holdeth the demeaneur of a manor for a rent without service. Tenant in service,

service, anno 20. Ed. 1. stat. 1. is hee that holdeth by service, v. Britton. cap. 79. in principio, & cap. 96. *Car fealite, &c. vel quere,* whether hee may be termed tenant in demesne, that holdeth some of the demeanes howsoever, and hee Tenant in service, which is a Free-holder to a manor, holding by service, for the Free-holds of a manor are not accounted of the demesne, but onely that which the Lord keepeth in his owne hand, or letteth out by copie, according to the custome of the manor. Tenant by execution, anno 32. Henry 8. cap. 5. is hee that holdeth land by vertue of an execution upon any statute, recognisance, &c.

Tendebived (decanus, vel caput decem familiarum) of this see Roger Hoveden, parte poster. suorum annalium, fol. 346. a. See Frank pledge.

Tenement (tenementum) is diversly used in the common Law, most properly it signifieth a house, or home Stall: but in a larger signification it is taken for either house or land that a man holdeth of another. And joyned with the Adjective (*Frank*) in our Lawyers French, it conteined generally lands or houses, yea or offices, wherein wee have estate for forme of life, or in fee. And in this significa-

tion, *Kitchin*, fol. 41. maketh frank tenement, and base estate, opposite the one to the other. In the same sort doth Britton use it, through his whole 27. Chapter, as also Bracton doth the Latine (*liberum tenentum*) li. pri. cap. 5. & 6. and many other places.

Tenantibus in assisa non onerandis, &c. is a writ that lyeth for him to whom a disseisour hath alienated the land whereof hee disseised another, that he be not molested for the dammages awarded, if the *Diffisor* have wherewith to satisfie them himselfe, Reg. orig. fol. 214. b.

Tenths (Decimus) is that yearly portion or tribute, which all Livings Ecclesiasticall doe yeeld to the King. For though the Bishop of Rome doe originally pretend right into this revenue, by example of the High Priest among the Jewes, who had tenths from the Levites, Numb. cap. 8. *Hieronymus in Ezechielem.* Yet I reade in our Chronicles, that these were often granted to the King by the Pope, upon divers occasions, sometime for one yeare, sometime for more, untill by the statute, anno 26. Hen. 8. cap. 3. they were annexed perpetually to the Crowne. See *Disms.* It signifieth also a taske levied of the temporaltie. *Holinshed, H. 2. fol. 111.*

Tenore indictamenti mittendo, is a writ whereby the Record of an indictment, and the processe thereupon, is called out of another Court into the Chancerie, Regist. orig. fol. 169. a.

Tenure (*Tenura*) commeth of the Norman (*Tenuere*) as appeareth by the *Grand Custumarie*, cap. 28. where it is defined to this effect: Tenure is the manner, whereby Tenements are holden of their Lords. What may make a Tenure, and what not, see *Perkins Reservations*, 70. And in that chapter shall you find the most of those Tenures recited, that be now usually in England. In Scotland I finde that there be foure manner of Tenures, which they call holding of land; the first is *pura elemozina*, which is proper to spirituall men, payng nothing for it, but *devota animarum suffragia*: the second they call *Few*, or *Few ferme*, which holdeth of the King, Church, Barons, or others, payng a certaine dutie, called *Feudi firma*. The third is a hold in (*Blench*) as they terme it, by payment of a penie, rose, paire of guilt spurs, or some such like thing, if it be asked, in name of *Blench*, *id est, nomine alba firma*. The fourth is by service of ward, and relieve, where the heire being *minor*, is in the gard or custodie of his Lord, together with his

lands, &c. And land holden in this fourth manner, is called there *fendum de Hauberk*, or *Haubert*; or *feudum militare*, or *fendum Hauberticum*, or *feudum loricatum*: because it is given upon condition, that the vassall p[er]fessor thereof, shall come to the Host with a Jack, or *Haubert*, which is a coat of Maile. M. *Skene de verb. signif. verbo Haubert*. *Tenure in grosse*, is the *Tenure in capite*. For the *Crowne* is called a *Seignorie in grosse*, because it consisteth as a corporation of and by it selfe, not tied to any honour, or manor. See *Cromptons Jurisd.* fol. 206. See the new booke of Entries, *verbo Tenure*.

Terme (*Terminus*) signifieth with us commonly, the bounds and limitation of time: as a leafe for terme of life, or terme of yeares, *Ebraston*, lib. 2. cap. 6.m. 4. But most notoriously it is used for that time, wherein the Tribunals, or places of Judgement are open to all that list to complaine of wrong, or to seeke their right by course of law, or action. The rest of the yeare is called vacation. Of these Termes there be foure in every yeare: during the which, matters of Justice (for the most part) are dispatched. And this Sir *Thomas Smith* lib. 3. de Rep. Ang. cap. 2. reckoneth as miraculous: that in lesse time then the third part of the yeare, three Tribuna-

nals, all in one Citie, should resti-
fie the wrongs of so large and po-
pulous a Nation, as *England* is. Of
these Termes, one is called Hil-
arie Terme, which beginneth the
23. of Januarie, or if that be Sun-
day, the next day following, and
endeth the 21. of Februarie. Ano-
ther is called Easter Terme, which
beginneth 18. daies after Easter,
and endeth the Munday next af-
ter Ascension day. The third is
Trinitie Terme, beginning the
Friday next after Trinitie sunday,
and ending the Wednesday fort-
night after. The fourth is Micha-
elmas Terme, beginning the 9. of
Ostober, or if that be Sunday, the
next day after, and ending the 28.
of November.

Termor (*Tenens ex termino*) is
he that holdeth for terme of yeares
or life, *Kitchin*, fol. 151. *Littleton*,
fol. 100.

Terra extendenda, is a writ di-
rected to the Escheatour, &c.
willing him to inquire and find
the true yearly value of any land,
&c. by the oath of twelve men,
and to certifie the extent into the
Chancerie, &c. *Register*, orig. fol.
293. b.

*Terris, bonis & catallis rebus
ab his post purgationem*, is a writ that
lieth for a Clerke to recover his
lands, goods, or chatels former-
ly seised on, after he hath cleared
himselfe of that felonie, upon sus-
pition whereof hee was formerly

convicted, and delivered to his
ordinarie to be purged, *Register*,
orig. fol. 68. b.

Terris liberandis, is a writ,
that lyeth for a man convicted
by attaint, to bring the Record
and Processe before the King, and
to take a fine for his impriso-
nement, and to deliver him his lands
and tenements againe, and to re-
lease him of the *Strip* and *Waste*,
Register, orig. fol. 232. a. It is also
a writ for delivery of lands to
the heire after homage, and re-
liefe performed; *codem*, fol. 293.
b. or upon securitie taken, that
hee shall performe them, *codem*,
fol. 313. b.

*Terris & catallis tensis ultra
debitum levatum*, is a writ Judi-
ciall, for the restoring of lands or
goods to a debtour that is di-
streined above the quantitie of
the debt, *Register Judiciall*, fol.
38. b.

Terretenant (*terratenus*) is he
which hath the naturall, and
actuall possession of the land,
which we otherwise call the oc-
cupation, anno 39. *Eliz. cap. 7.*
For example, a Lord of a manour
hath a Free-holder, who letteth
out his free land to another to be
occupied: this occupier is called
the *Terretenant*, *West. parte 2.*
symb. tit. Fines. Sect. 137. Crompton's Jurisd. fol. 194. *Britton, cap. 29. Perkins feosments*, 231. And
*Petrus belluga in speculo Princi-
pum.*

num. Repub. 46. versiculo, Restat videre, num. 9. useth this word *Terratenentes* in the same signification. See *Land tenents*. Yet I have heard some learned in the Law say, that the *Tertenent*, is the tenant in free, or copyhold, according to the custome of the manour, and opposite to tenant for terme of yeares. *Quere.*

Ters, is a certaine measure of liquide things, as wine, oyle, &c. containing the sixth part of a Tunne, anno 32. H. 8. cap. 14. or the third part of a Pipe.

Testament, (*testamentum*.) See *Will*.

Testatum, is a writ that commeth especially to lye against great personages of the Realme, whose bodies may not be medled with in actions of debt. And therefore if the Sheriffe returne, (*nihil habet in baliva mea*) in a case of execution, another writ shall be sent out into any other Countie, where such personage is thought to have whence to satisfie, which is termed a *Testatum*, because the Sheriffe hath formerly testified, that he found nothing in his Baylieweke to serve the turne. See *Kitchin* in his Returns of writs, fol. 287. b.

Teste, is a word commonly used for the last part of any writ: so called, because the very conclusion of every writ wherein

the date is contained, beginneth with these words (*teste meipso*, &c. If it be an originall writ, or if judicall, *teste Thom. Flemming*, or *Edovardo Cooke*, according to the Court whence it commeth. Where I may note by the way, that in *Glanvile*, lib. pri. cap. 6. & 13. & lib. 2. cap. 4. I finde the forme of an originall writ in the last clause to be (*teste Ranulpho de Glanvilla apud Clarindon*, &c. And divers times in the Register, orig. *Teste custode Angliae*: as namely, in the title *Prohibition*, fol. 42. a. and *Consultation*, fol. 54. b.

Thanus, is a made Latine word of the Saxon (*thegu*) which commeth of (*thenian*) i. *alicui ministerare*.) It signifieth sometime a Noble-man, sometime a free man, sometime a Magistrate, sometime an Officer, or Minister. *Lamb*. in his Exposition of Saxon words: *verbo thanus*. See the place. See *Vavasour*, *M. Skene de verbor. significat*. saith, it is the name of a dignitie, and appeares to be equall with the sonne of an Earle. And *Thanus* was a Freeholder holding his lands of the King. And a man not taken with the *fang* (that is, with the manner, as wee say) accused of theft, no sufficient prooife being brought against him, must purge himselfe by the oath of seven and twenty men, or of 3: *Thanes Tharnagium*

nagium Regis, signifieth a certaine part of the Kings lands, or propertie, whereof the rule and government appertaineth to him, who therefore is called *Thanus*. For *Domania Regis*, and *Thana-gia*, idem significant. It is a Dutch word : For (*teiner*) signifieth a servant, and *teinen* to serve. And *thane* is likewise a servant, and *under-thane*, an inferiour *thane* or subiect. Thus farre Master *Skene*.

Thack-tile, anno 17. Edw. 4. cap. 4. otherwise called *plaine tyle*, is that tile which is made to be layed upon the side, and not upon the rudge of a tyled house, anno 17. Ed. 4. cap. 4.

Theam. See *Team*.

Theft (*furtum*) is an unlawfull felonious taking away of another mans moveable, and personall goods against the owners will, with an intent to steale them. *West. parte 2. symbol. titulo Inditemens*, sect. 58. where also hee saith, that theft is from the person, or in presence of the owner, or in his absence. Theft from the person or in presence of the owner, is of two sorts: the one putting the owner in feare, the other not. *Idem, eodem, sect. 59.* The former is properly called *Robberie*, *ibid. sect. 60.* The new Expounder of law termes, *verbo Larcenie*, divideth theft into theft so simply called, and pe-

tit or little theft. Whereof the one is of goods above the value of twelve pence, and is felonie, the other under that value, and is no felonie. But see *Felonie*.

Theftbote, is made of (*theft*) and (*boote*) i. *compensatio*, and signifieth properly the receiving of goods from a theefe, to the end to favour, and maintaine him. The punishment whereof is ransom and imprisonment, and not losse of life and member. *Statut. pl. cor. lib. prim. cap. 43.* And the mirror of Justices, *lib. 2. cap. des peches criminals al sice le Roye*. And yet hee there maketh mention of a Record alledged, which testified a judgement of life and member given in this case.

Thegue. See *Thamus*, and *Thingus*.

Tbam. See *Team*. It signifieth *acquietantiam amerciamento-rum sequele propriorum servorum*. *Fleta*, *lib. prim. cap. 47. sect. Themo*.

Thelonium. See *Tholle*, and *Tholonium*, and *Tolle*.

Theolonio rationabili habendo pro Dominis habentibus Dominicis Regis ad firmam, is a writ, that lyeth for him, that hath of the Kings demesne in fee ferme, to recover reasonable tolle of the Kings tenents there, if that his demesni have beene accustomed to

to be tolled, Register, orig. fo. 87. b.

Thingus. Cromptons Jurisd. fol. 197. seemeth to be used for the Saxon *Thegne*. See *Thamus*. His words are these, speaking of a Charter or Graunt made by a Lord of a Forest. *Sciatis me concessisse omnibus militibus, & omnibus thingis, & omnibus liberè tenentibus, qui manent in Foresta mea de Honore de Lancaster, quod possunt, &c.* Fleta wrteth it *Tlein*, and saith, *quod significat liberum*.

Iben, significat seruum. *Fleta*, lib. prim. cap. 47. See *Ibanus*, and *Thingus*.

Ibridberow, is used for a Constable, anno 28. Hen. 8. cap. 10. which also is noted by *M. Lambert* in his Tractate intituled: The dutie of Constables, pag. 6. which seemeth to bee corruptly used for the Saxon (*fresborb. i. ingenuus fidejussor*,) or (*freborbe-skeofd. i. vas primarius*) *Idem*, in his explication of Saxon words, verbo, *Centuria*.

Ibrid with bawas man (*trium noctium hospes*) who if he did any harme, his Host, by the lawes of Saint Edward, and of the Conquerour, was answerable for the harme. *Rogerius Hoveden parte poster. suorum annal. fol. 345.*

Ithokei of fyf, anno 22. Ed. 4. cap. 2.

Tholl (*Thollonium*) est libertas emendi, & vendendi in terra sua. *Archaiom. Lam. fol. 132.* See *Toll*.

Thrave of corne, anno 2. Hen. 6. cap. 2. consisteth of two shookes: and every shooke containeth fixe sheeves. It seemeth to be a word proper to the North parts.

Thrimfa, commeth of (*Threo*) that is three, and signifieth a peece of money of three shillings. *Lamb. explica. of Saxon words*, verbo *Thrimfa*.

Tilsen of saten, anno 1. Hen. 8. cap. 14.

Tincell, commeth of the French (*Estincelle. i. scintilla*) or the verbe (*Estinceller. i. scintillare*.) It signifieth with us a stiffe or cloath made partly of silke, and partly of gold or silver so called, because it glistereth or sparkleth like starres.

Tissu, is a French word signifying as much as (woven) Cloath of Tissu, with us cloath of silke and silver, or of silke, and gold woven together.

Tithe (*Decimo*) seemeth to be an abbreviat of (tything) being the Saxon (*Teotbung*) a little altered, which signifieth *Decuriam*. *Lamb. explication of Saxon words*, verbo *Decuria*. It signifieth in our common Law, the tenth part of all fruits prediall, or personall, which bee due to God, and so consequently to his Minister, toward the recompence of his paines taken in instructing his charge, how to

live after Gods commandements, and his continuall intercession that hee doth or ought to make unto God for their both spirituall and temporall blessings, *Levit. cap. 27. versu 30.* I say the tenth part, though *Covarruvia* with other learned Canonists and Schoolemen, hold the rate of tithes, not to bee necessarily the tenth part of the fruites by the morall Law of God. Yet the better and more Theologieall opinion is, that they are all deceived, and that from their errour hath sprung much wrong to Almighty God, and great mischiefe to his Church: and that by the law of God and nature, no contrary custome ought to last any longer, then the Parson, and Parishioner shall both thinke well of it. Wherfore those customes of paying a halfe penny for a Lambe, or a penny for a Calfe by such as have under seven in one yeare, how long soever it hath indured, is but very unreasonable in these dayes, when both Lambes and Calves are growne foure times dearer, and more then they were when this price was first accepted. And therefore no man dischargeth well his conscience in this point that payeth not duly the tenth of every Lambe, every Calfe, and every other thing titheable. For

by this course the Minister faileth well or evill in a proportion with his Parishioner, as it pleaseth God to give increase, whereas by any other order the one or the other shall finde want of indifference, as the prices of things shall rise or fall.

Tithing (Tithingum) is the Saxon word *Teothung* for the which see (*Tithe.*) It signifieth (as *M. Lambert* saith in his dutie of Constables) the number or company of ten men with their families, cast or knit together in a societie, all of them being bound to the King for the peaceable and good behaviour of each of their societie. Of these Companies was there one chiefe or principall person, who of his office was called (*Toothung-man*) at this day in the West parts (*Tithingman*) but now he is nothing but a Constable. For that old discipline of Tithings is left long sithence. It signifieth also a court, *Anno 23. Ed. 3. cap. 4. & anno 9. H. 3. cap. 35.* See *Chief Pledge* and *Franke Pledge*, and *Decennier*. Tithing is used for a Court. *Magna charta, cap. 25. and Merton, cap. 10.*

Todde of wooll, is a quantitie containing 28. pound in weight, or two Stone.

Tost (Tostum) is a place, wherein a mesuage hath stood.

West.

West. parte 2. symbol. titulo Fines.

Sect. 26.

Toile, commeth of the French (Toile. i. tela) and signifieth with us a net or cord to compasse or take Deere.

To lange and to bred. See Bred.

Tolle, (Tollere) as it is a verbe, signifieth to defeat or take away, anno 8. H. 6. cap. 9.

Toll, alias Thol (Tolnetum, alias Theolonium) is a Saxon word, and hath in our common Law two significations: first it is used for a libertie to buy and sell within the precincts of a manour, Lamb. Archainom. fol. 132. which seemeth to import so much as a Faire or Market. The words be these: Thol (quod nos dicimus Theolonium) est scilicet quod habeat libertatem vendendi & emendi in terra sua. In the second signification it is used for a tribute or custome paid for passage, &c. as in Bracton: Si cui concedatur talis libertas quod quietus sit de Theolonio & consuetudinibus dandis per totum Regnum Angliae in terra & mari, & quod Theolonium & consuetudines capiat infra libertatem suam de ementibus & vendentibus, &c. lib. 2. cap. 24. num. 3. But even there in the end of the second number hee hath this word, Tolle (as it seemeth) in the former signification also, which by these words above written following a little after, he inter-

preteth to be a libertie as well to take, as to be free from Tolle. The made Latine word (Theolonium) Cassaneus in consuet. Burgund. pag. 118. deriveth a (Tolendo) but I rather thinke it commeth from the Greekē (τελώνια) or (τελογέλα) i. vettigalium redemptio, vel etiam vettigalium exactio) Fleta hath these words of it: Tol significat acquietantiam Theolonii ubiq; in Regno, lib. pri. cap. 47. M. Skene de verb. signif. verbo Toll, saith it is a custome, and that it commeth from the Greeke word of the same signification (τίλω) and that hee who is infeoffed with Toll, is custome free, and payeth no custome: which is manifest by sundrie old bookees, wherein it is written: Toll, hoc est, quod vos & homines vestri de toto homagio vestro sint quieti de omnibus mercatis, & de Tolneto, de omnibus rebus empiris & venditiis. Thus farre hee. Kitchin, fol. 104. maketh mention of tolle through, and tolle travers, his words be to this effect: Custome or prescription to have tolle through in the High way, is not good: for it is against the common right. But to have prescription of tolle travers, is good. In which place the difference betweene the one, and the other the new expositour of Law Termes saith to be, that tolle travers is that monie, which is

is taken for passing over a private mans ground. But this Author seemeth to differ from *Kitebin* touching the lawfulness of tolle, through saying, that by reason of a Bridge provided at the cost and charge of the towne, for the ease of Travellers, hee thinketh it reasonable, that tolle through be enacted toward the maintenance thereof: which writer also maketh mention of tolle, *Turne*: and that he defineth to bee tolle paid for beasts driven to be sold, though they be not sold indeed. Where I thinke, hee must mean a tolle paid in the returne homeward from the Faire or Market, whither they were driven to be sold. *Plowden*, *casu Willion*, fol. 236. agreeth in this definition of tolle travers. And this the Feudists call *Parangariam*, defining it to be *Sumpitus & labores ferendi referendive aliquius causa a principe impositi, cum non per viam, sed alid versus iter suscipitur.* l. 2: *Cod. de Episc. & cleri à greco* (*Σαχαρεια.*) i. *transitus per viam transversam.* *Gothofred.* ad. l. 4. sect. 1. n. *de vetera;* I find in *Andrew Hornes mirror of Justices*, lib. 1. cap. des articles, &c. that by the ancient law of this land, the buyers of corne or cattell in faires or Markets, ought to pay tolle to the Lord of the market, in testimonie of their contract there law-

fully made in open market: for that privie contracts were held unlawfull.

Toloneum or *Breve de essendi quietum de Teloneo*, is a writ that lieth in case, where the Citizens of any Citie, or Burgeesses of any Towne, be quit from tolle by the grant of the Kings Predecessors, or prescription: which you have at large in *Fitzb. nat. br. fol. 226.* See *Telonium*.

Tolt (*Tolta*) is a writ whereby a cause depending in a Court Baron, is removed into the Countie court. *Old nat. br. fol. 2.* The reason of the appellation seemeth to come from the verbe (*Tollo*) v. *Coke*, lib. 3. in *prefations ad lectorem*.

Tonne. See *Tunne*.

Tonnage, is a custome or impost due for merchandise, brought or carried in Tuns and such like vessels, from or to other nations after a certain rate in every Tun, an. 12. *Edw. 4. ca. 3. anno 6. H.8. ca. 14. & anno p. i. Ed. 5. ca. 13. anno pri. Jacobi*, ca. 33. I have heard it also called a datie due to the Mariners for unloading their Ship arrived in any Haven after the rate of every Tun.

Torny. See *Turney*.

Totted, anno 42. *Edw. 3. cap. 9. & anno 1. Ed. 6. cap. 15* is a word used of a debt, which the forrein Apposer, or other officer in the Exchequer noteth for a good debt

debt to the King by writing this word (*Tot*) unto it.

Turn. See *Turn*.

Tout temps prist & uncore est, that is to say in English, Alway readie, and is at this present: This is a kind of Plee in way of excuse or defence unto him that is sued for withholding any debt, or dutie belonging to the Plaintiff. See of this, *Broke his Abridgement*, fol. 258.

Traile baston. See *Justices of trial baston*.

Traitor (*traditor, preditor*) See *Treason*.

Transgression, is a writ, called commonly a writ or action of trespass. Of this *Fitzherbert* in his *Natura brevium*, hath two sorts: one *Vicountiel*, so called, because it is directed to the Sheriff, and is not returnable, but to be determined in the Countie: The forme whereof differeth from the other, becaufe it hath not these words: *Quare vi & armis, &c.* and this see in *Fitzherberts natura brev.* fol. 85. G. The other is termed a writ of trespass upon the case, which is to be sued in the common Banke, or the Kings Bench, in which are alwayes used these words, *vi & armis, &c.* And of this you have *Fitzherberts nat. brev.* fol. 92. E. See *Trespas*. See the divers use of this writ in the *Register originall*, in the Table.

Transcript, anno 34. & 35. H. 8. cap. 14. is the copy of any originall written againe, or exemplified.

Transcriptio Recognitionis factae coram Justiciariis itinerantibus, &c. is a writ for the certifying of a Recognizance, taken before Justices in Eyre, into the Chancerie, *Regist. orig. fol. 152. b.*

Transcripto pedis finis levati mittendo in Cancellarium, is a writ for the certifying of the foot of a fine levied before Justices in Eyre, &c. into the Chancerie, *codem, fol. 169. et Register judiciale, fol. 14.*

Travers, commeth of the French (*Traverser. i. transfigere*) It signifieth in our common law sometime to denie, somtime to overthrow, or undoe a thing done. Touching the former signification, take these words in *West's Symbol. parte 2. titulo Chancerie, Sect. 54.* An answere (saith hee, speaking of an answere to a bill in Chancerie) is that, which the Defendant pleadeth, or saith in Barre to avoid the Plaintifffes bill, or action, either by confession and avoiding, or by denying and traversing the materiall parts thereof. And againe, *Section 55.* A replication is the Plaintifffes speech or answere to the Defendants answer; which must affirme and pursue his bill, and confess

and avoide, denie or traverse the Defendants answere. And the formall words of this travers are in Lawyers French (*sans ceo*) in Latine (*absque hoc*) in English (*without that.*) See *Kitchin.* fol. 227. *titulo Affirmative & Negative.* In the second signification I find it in *Staunfords prerog. cap. 20.* through the whole Chapter, speaking of traversing an Office : which is nothing else , but to prove , that an Inquisition made of goods or lands by the Escheatour , is defective and untruly made. So traversing of an Inditement , is to take Issue upon the chiefe matter thereof : which is none other to say , then to make contradiction , or to denie the poynt of the Enditement. As in presentment against *A.* for a highway overflowne with wa-
ter for default of scowring a ditch , which hee and they whose estate hee hath in certaine land there , have used to scowre and cleanse. *A.* may traverse either the matter , *viz.* that there is no high way there , or that the ditch is sufficiently scoured : or otherwise hee may traverse the cause , *viz.* that hee hath not the land , &c. or that he and they whose estate , &c. have not used to scowre the ditch. *Lamb. Eirenarcha. lib. 4. cap. 13. pag. 521.* 522. Of *Traverse* ; see a whole Chapter in *Kitchin.* fol. 240. See

the new booke of Entries. *verbo Traverse.*

Treason (*traditio, vel proditio*) commeth of the French (*trahison*, i. *proditio*) and signifieth an offence committed against the amplitude and Majestie of the Common-wealth. *West. parte secund. symbol. titulo Inditement. sect. 63.* by whom it is there divided into High treason , which other call *altam prodicionem*, and Petit treason. High treason he defineth to bee an offence done against the securitie of the Commonwealth , or of the Kings most excellent Majestie : whether it be by imagination , word, or deed : as to compasse or imagine Treason , or the death of the Prince , or the Queene his Wife , or his Sonne and heyre apparent , or to deflowre the Kings wife , or his eldest Daughter unmarried , or his eldest sonnes Wife : or levie war against the King in his Realme , or to adhere to his enemies , aiding them , or to counterfeit the Kings great Seale , privie Seale , or money , or wittingly to bring false money into this Realme counterfeited like unto the money of *England* , and utter the same : or to kill the Kings Chancelor , Treasurer , Justice of the one bench , or of the other , Justices in Eyre , Justices of Assise , Justices of *Oyer and Terminer* , being in his place , and doing of

of his office, anno 25. Ed. prim. cap. 2. or forging of the Kings seale Manuell, or privie signet, privie seale, or forraine coine current within the Realme, anno 2. Mar. cap. 6. or diminishing or impairing of money current, an. 5. Elizab. ca. 11. & anno 14. El. ca. 3. & 18. Elizab. ca. pri. and many other actions which you may reade there and in other places particularly expressed. And in case of this treason a man forfeiteth his lands, and goods to the King onely. And it is also called treason Paramount, anno 25. Edw. 3. cap. 2. The forme of Judgement given upon a man convicted of high treason is this. The Kings Sergeant after the verdict delivered, craveth Judgement against the prisoner in the behalfe of the King. Then the Lord Steward (if the traytour have beene noble) or other Judge (if hee be under a Peere) saith thus: N. Earle of P. For so much as thou before this time hast beene of these treasons indited, and this day arraigned for the same, and put thy selfe upon God and thy Peeres, and the Lords thy Peeres have found thee guiltie, my Judgement is that thou shalt from hence bee conveyed unto the Tower of London, whence thou camest, and from thence drawne through the middest of London to Tiburne,

and there hanged: and living thou shall be cut downe, thy bowels to be cut out and burnt before thy face, thy head cut off, and thy body to bee divided in foure quarters, and disposed at the Kings Majesties pleasure: and God have mercy upon thee.

Petit treason is rather described by examples, then any where logically defined: as when a servant killeth his master, or a wife her husband, or when a secular or religious man killeth his Prelate, to whom he oweth faith and obedience. And in how many other cases petit treason is committed, see Cromptons *Justice of peace*. And this manner of treason giveth forfeiture of Escheats to every Lord within his owne fee, anno 25. Edw. 3. cap. 2. Of treason see Bracton, lib. 3. tract. 2. cap. 3. nu. pri. & 2. Treason compriseth both high and petit treason anno 25. Edw. 3. stat. 3. cap. 4.

Treasure troué (*Theaurus invitus*) is as much as in true French (*Tresor trouvé*). i. treasure found: and signifieth in our common law, as it doth in the civile law, *id est*, veterem depositionem pecuniae, cuius non extat memoria, ut jam dominum non habeat. l. 31. sect. prim. de acquir. rerum Dom. Neere unto which definition commerth Bracton, lib. 3. tract. 2. cap. 3. num. 4. And this trea-

sure found, though the civill law doe give it to the finder, according to the law of nature; yet the law of England giveth it to the King by his Prerogative, as appeareth by *Braeton ubi supra*. And therefore as hee also saith in the sixth Chapter, it is the Coroners office to enquire ther-of by the Countrie to the Kings use. And *Stawnford*, pl. cor. lib. prim. cap. 42. saith, that in ancient times, it was doubtfull, whether the concealing of treasure found, were felonie, yea or not: and that *Braeton calleth it gravem presumptionem, & quasi crimen furti*. But the punishment of it at these dayes, as he proveth out of *Fitzb. Abridgement*. pag. 187. is imprisonment, and fine, and not life and member. And if the owner may any way bee knowne, then doth it not belong to the Kings Prerogative. Of this you may read *Briton* also, cap. 17. who saith, that it is every subjects part, as soone as hee hath found any treasure in the earth, to make it knowne to the Coroner of the Countie, or to the Bailiffes, &c. See *Kitchin* alto fol. 40.

Treasurer, thesaurarius, commeth of the French (*tresorier. i. quaistor, prefectus fisci*) and signifieth an Officer, to whom the treasure of another, or others, is committed to be kept, and truly

disposed of. The chiefest of these with us, is the Treasurer of England, who is a Lord by his office, and one of the greatest men of the land: under whose charge and governement is all the Princes wealth contained in the Exchequer, as also the checke of all Officers any way employed in the collecting of the Imposts, Tributes, or other revenues belonging to the Crowne. *Smith de Repub. Anglor.* lib. 2. cap. 14. more belonging to his office, see anno 20. *Edw. 3 cap. 6.* & anno 31. *Henr. 6. cap. 5.* & anno 4. *Edw. 4. cap. prim.* & anno 17. *ejusdem, cap. 5.* & anno prim. *R. 2. cap. 8.* & anno 21. *Henr. 8. cap. 20.* & anno pri. *Edw. 6. cap. 13.* *Ockams Lucubrations* affirme, that the Lord chiefe Justice had this authoritie in times past: and of him hath these words: *Iste excellens Sessor omnibus, que in inferiore vel superiore scacchio sunt, prospicit. Ad nutum ipsius quilibet officia subiecta disponentur: sicut tamen ut ad Domini Regis utilitatem justo perveniant. Hic tamen inter cetera videtur excellens, quod potest his sub testimonio suo breve Domini Regis facere fieri, ut de thesnero quilibet summa liberetur, vel ut computetur quod sibi ex Domini Regis mandato prenoverit computandum, vel si maluerit, breve suum sub aliorum testimonio faciat de his rebus.*

This

This high Officer hath by virtue of his Office at this day, the nomination of the Eschetours yearly throughout England, and giveth the places of all Customers, Controllers, and Searchers in all the Ports of the Realme. Hee sitteth in the Chequer Chamber, and with the rest of the Court; ordereth things to the Kings best benefit. Hee with the Barons may by Statute stalle debts of three hundred pounds and under. And by Commission from his Majestie, hee with others joyned with him, letteth leases for lives or yeares, of the lands that came to the Crowne by the dissolution of Abbies. Hee by his office giveth warrant to certaine men to have their wine without impost. Hee taketh declaration of all the money paied into the Receipt of the Exchequer, and of all Receivers accompts.

Then is there a Treasurer of the Kings housshould, who is also of the Privie Councell, and in the absence of the Steward of the Kings housshould, hath power with the Controller and the Steward of the Marshalsea, without commission to heare and determine treasons, misprisions of treasons, murder, homicide, and blood-shed, committed within the Kings Pallace. *Statut. pl. cor. lib. 3. cap. 5.* In the statute,

anno 28. Rich. 2. cap. 18. & *anno 11. Hen. 7. cap. 16.* mention is made of the Treasurer of Calis. In *Westm. 2. cap. 8.* of the Treasurer of the Exchequer, & *anno 27. Edw. 3. stat. 2. cap. 18.* & *anno 35. Eliz. cap. 4.* Of the Treasurer of the Navie, or Treasurer of the warres, or garrisons of the Navie, *anno 39. El. cap. 7.* Treasurer of the Kings Chamber. *anno 26. H. 8. cap. 3.* & *anno 33. ejusdem cap. 39.* Treasurer of the warres, *anno 7. Henr. 3. cap. prim.* *anno 3. Henr. 8. cap. 5.* Treasurer of the Chauncerie. *West. parte 2. symbol. titulo. Fines sect. 152.* Treasurer of the Kings Wardrobe, *anno 15. Edw. 3. stat. prim.* *cap. 3.* & *anno 25. ejusdem, stat. 5. cap. 21.* whose office you have well set forth in *Fleta, lib. 2. cap. 14.* Treasurer of the Countie for poore Souldiers, *anno 35. Eliz. cap. 4.* And most Corporations through the Kingdome, have an Officer of this name, that receiveth their rents, and disburseth their common expences.

Treate commeth of the French (*traire. i. emulgere*) and signifieth in the Common-law, as much as *taken out, or withdrawne.* As a Juror was challenged, for that hee might not dispend 40. pounds, and for that cause hee was treate by the Statute, *old. nat. br. fol. 159.* that is, removed or discharged.

Breade of treate, anno 51.H.3. Statute of bread, &c. what it signifieth, I cannot learne.

Trespass (*Transgressio*) is a French word, signifying as much as *Mors, obitus, excessus*. The reason whereof I take to be, because in interpretation it is a passage from one place or estate to another: for in *Britton*, cap. 29. I find *trespassants* for *passengers*. In our common law and language, it is used for any transgression of the law, under treason, felonie, or misprision of treason, or of felonie, as may bee gathered out of *Stawnf. pl. cor. fol. 38.* where hee saith, that for a Lord of the Parliament to depart from the Parliament without the Kings licence, is neither treason nor felonie, but trespass. And againe, *fol. 31.* saying, that where it was wont before the Statute made, anno prim. *Edw. 2.* called *Statutum de frangentibus prisonam*, that the breach of prison was felonie, if it were the Kings prison: it is sithence but trespass, except the prisoner were committed for felonie. But it is most commonly used for that wrong or damage, which is done by a private man to the King, as in his Forest, *pl. cor. lib. 2. cap. 18.* or to another private man. And in this signification it is of two sorts: trespass generall, otherwise termed, trespass *vi et ar-*

mis; and trespass especiall, otherwise called trespass upon the case. And this seemeth to bee without force. Termes of the Law. Action upon the case, as appeareth by *Kitchin*, fol. 176. The former I take to be called generall, because it riseth from that generall ground in Law, that whatsoever is done by any private mans humour *vi & armis*, is an offence. The latter I call especiall, because *Kitchin* calleth the other generall: and another reason may bee this, because it springeth from a particular case or fact, not contained under any other generall head. And the action lying for this trespass, is otherwise called an action upon the case, as may be gathered out of divers places under the title *Trespass*, in *Brooke* his Abridgement. How to distinguish the forme of these writs or actions, See *Fitzherb. nat. br. fol. 86. l. & 87. H. I.* in an action of trespass, this is perpetuall, that the Plaintiff sueth for damages, or the valew of the hurt done unto him by the Defendant. It seemeth an hard thing to distinguish these two kinds of trespasses so, as to bee able to say when it is a trespass *vi et armis*, and when upon the case: as may well appeare to him that shall peruse this title in *Brooke*. But this is to be left to the experience of

of grave and skilfull Pledgers. I find moreover in *Kitchin*, fol. 188. that there is a *trespasse locall*, and *trespasse transitory*, *trespasse locall* is that, which is so annexed to a place certaine, as if the Defendant joyne issue upon the place, and traverse the place, onely by saying, *Absque hoc*, that hee did the trespass in the place mentioned in the declaration, and avverre it, it is enough to defeat the action. *Trespasse transitorie* is that, which cannot be defeated by the Defendants traverse of the place, saying: Without that I committed the trespass in the place declared: because the place is not materiall. Examples of both you have set downe by *Kitchin*, in the place above named, to this effect: traverse by (*Absque hoc*) of trespass in batterie, or goods brought in, is transitorie, and not locall: as it is of trees cut, or herbes.

And therefore in trespass transitorie, the place shall not make issue, neither is it traversable: no more then is a trespass upon a case of an Assumption. *Broadon* in his fourth booke, cap. 34. num. 6. divideth *transgressionem in majorem & minorem*: which place reade. See also great diversitie of trespasses in the new booke of Enteries. *verbo Trespassa.*

Triall (*triatio*) is used in our

common law, for the examination of all causes civill or criminall, according to the lawes of our realme. Of this word *Stawn*. pl. cor. lib. 2. cap. 26. writeth to this effect. There was a statute made prim. & secund. *Philip. & Mar.* cap. 10. to this purpose. And be it farther enacted by the authoritie aforesaid, that all trials hereafter to be had, awarded or made for any treason, shall bee had and used according to the due order and course of the common lawes of this Realme, and not otherwise, &c. By this word (*triaill*) saith *Stawnf.* in that place, some understand as well the inquest that indideth a man, as the inquest upon the arraignment, that attaineth or acquitteth him. For these two make but one intire triall, that every man is to have, when hee is impeached of treason. But others have answered to this, that triall in common speech, is the triall that a man is to have, after he is indicted, and not before. For in Law the Inditement is nougnt, but the accusation against him, which he is to make answere unto, and that being tried, it either attainteth, or acquitteth him. So that the triall is the issue, which is tried upon the inditement, and not the Inditement it selfe. For that is no part of the thing which trieth, but the thing which

is tried, and the offence. And so is this word Triall understood in the Statute, anno 33. Henr. 8. cap. 23. where it saith thus; Must bee indighted within the Shires or places, where they committed their offences, and also tryed by the Inhabitants, or Free-holders. so hee putteth a difference betweene Inditement and Tryall, as hee doth also afterward in these words: There to bee indited and tryed of their offences, &c. Thus farre *Stawnf.* Sir Tho. Smith, *de Repub. Anglo.lib. 2. ca. 5.* saith, that by order and usage of England, there are three trials, that is three wayes and manners, whereby absolute and definite Judgement is given by Parliament, which is the highest, and most absolute, by battell and great assise: which he severally describeth in three chapters following, though not so fully as the thing requireth. But of the great Assise, he speaketh at large in the three and Twenty chapter of the same book. And of these trialls see more in *Stawnf. pl. cor. lib. 2. cap. pri. 2. & 3.* whereof hee divideth the great Assise into two sorts: one proper to Barons of the Parliament, which is by 20. or 18. of their Peeres: the other common to others of lower condition, which is by 12. men, that be neighbours to the place where

the offence was committed, And of those you may reade him at large in the said Chapters there following. See *Twelue men.* See the *New Booke of Entries*, verbo *Triall.*

Tribing, (Tribinga, vel Tribinga) seemeth by a place in *Edward the Confessors Lawes*, set out by Master *Lamberd*, num. 34. to be the third part of a Shire or Province, otherwise called (*Lethe*) which wee now call (*Leete.*) The same law doth *M. Camden* mention, pag. 102. and 103. This Court is above a Court Baron, and inferiour to the shire, or county. This word is also used in the sentence of excommunication upon the great Charter and Charter of the Forest, denounced in the dayes of *Edward the first*, as it is latined in the booke called *Pupilla oculi*, parte 5. cap. 22. A. I. in these words: *Visis autem de franco plegio sic fiat, sc. quod pax nostra teneatur, & quod Tribinga integras sit, sicut esse consuevit, &c.* Of this *Flita lib. 2. cap. 61. sect. final.* writeth thus; *Sciendum est quod alie potestates erant super Wapentakia, que Trizinga dicebantur, eo quod erat tertia pars provincie, qui vero super eas dominabantur, trithingreves vocabantur, quibus deferebantur cause qua non in Wapentakiis poterant definiri in Schiram siveq; quod vocauerunt*

Hundredum, jam per variationem locorum & idiomatis, Wapentakie appellatur, & tria vel quatuor vel plura Hundreda solebant trithinga vocari: & quod in trithingis non poterant diffiniri in shiram. i. in comitatum deferebatur terminandum. Modernis autem temporibus pro unius eodem habentur apud homines Hundreda Wapentakia & trithinga. Learne whether those divisions in Yorke shire called ridings, be not quasi trithings. Of this Roger Hoveden, parte poster. suorum annal. fol. 346. b. hath the same words in effect.

Treswell of double soled shooes, anno 2, & 3. Edw. 6. cap. 9. which as I have heard, should rather be written Creswel, signifying the broad edge or verge of the shooe sole round about.

Trinitie house, is a certaine houle at Deptford, which belongeth to a Company or Corporation of Sea-faring men, that have power by the Kings Charter, to take knowledge of those that destroy Sea-markes, and to redresse their doings, as also to correct the faults of Sailors, &c. and to take care of divers other things belonging to Navigation, and the Seas. v. anno. 8. Elizabeth, cap. 13. & anno 35. ejusdem, cap. 6.

Trink, is a kind of Net to fish withall, anno 2. H. 6. cap. 15.

Triours, be such as be chosen

by the Court to examine whether a challenge made to the panell, or any of the panell be just, yea or not, Broke, titulo Challenge. fol. 122. and Old nat. br. fol. 158.

Tritis, alias Tristis, is an immunitie from that attendance in the Forest, whereby every man dwelling in the Forest, is tied to bee readie, holding of a Grey-hound, when the Lord of the Forest is disposed to chase within his Forest, at such place as hee shall bee appointed, or else to be amerced for his default. Manwood parte pri. of his Forest lawes. pag. 86. and Cromptons Jurisd. fol. 192. & 197.

Tronage (Tronagium) is a kind of tolle, Westm. 2. cap. 25. anno 13. Edw. 1. taken (as it seemeth) for weighing. For I find in Fleta. lib. 2. cap. 12. sect. Item ulnas that trona is a beame to weigh with. See Weight.

Trover, commeth of the French (Trouver. i. Invenire) It signifieth in our common law, an action which a man hath against one that having found any of his goods, refuseth to deliver them upon demand. See the new booke of Entries, verb. Trover.

Troy weight (Pondus Troiae) See Weight.

Tumbrell (Tumbrellum) is an engine of punishment, which ought to bee in everie libertie that hath view of Frank pledge,

for the correction of Scolds and unquiet women, *Kitchin*, fol. 13. a. New book of Entries. *Franchis.* 2. & *Quo warranto.* 1. See *Cucking stoole*.

Tunne, is a measure of Oile or Wine, conteining twelve score and twelve Gallons, anno 1. Rich. 3. cap. 12. that is foure Hogsheads.

Tunnage. See *Tonnage*.

Turbarie (*Turbaria*) is an Interest to dig Turves upon a Common, *Kitchin*, fol. 94. *Old natura brevium*, fol. 70. It commeth of the rude Latine word (*Turba*) which is used for a Turfe. *Lynd*, in provin. *de decimis cap. finali*.

Turmeric (*Turmerica*) is a certaine root of an herbe growing in *Arabia*, as I have been informed, very wholsome for divers diseases in horses, and sometime used for man also in case of Jaundies. It is reckoned among the garbeable drugs, anno. 1. *Jaco. cap. 19.*

Turn (*Tarnum*) is the Sheriffes Court, kept every yeare twice: once after Easter, and againe, after Michaelmas, *Magna Charta, caput 35.* and that within one moneth after each Feast, anno 3. *Edw. 3. cap. 15.* from this court are exempted only, Archbishops, Bishops, Abbots, Priors, Earles, Barons, all religious men, and women, and all such as have

Hundreds of their own to bee kept. And these are not bound to appeare there except their apparence be especially required upon some extraordinary cause, anno 25. *Henr. 3. cap. 10.* and *Britton, cap. 29.* It seemeth to bee called the *Sheriffes Turn* of the French word (*Tour* i. *ambitus*, *circuitus*, *vicissitudo*) and is of *Britton* called *Tour*, cap. 61. *sub fine capitii*, as if wee would say, (*The Sheriffe his course*) for (as *Britton* noteth in the said twentie nine chapter) that which before the Sheriffe, is called the *Sheriffes Turne*, is called in the Court of *Franchises* and *Hundreds*, the view of *Frank-pledge*: wherein inquirie is especially made of such as bee not in any Dozin: with whom *Fleta* agreeth: And by *Fleta* it appeareth that this Turne was the *Sheriffes* course to keepe his Court in everie Hundred, lib. 2. cap. 52. in princip. So that as the inferior Courts had their times to take knowledge of those, and other causes belonging to their cognisance: So the Sheriffe had his course or Turne to doe the like at these two severall seafsons. That if there were any defects in them, it might bee redressed in these, and Gods peace and the Kings so much the more carefully observed. This, as Master *Lambert* saith, was of old called also

also the Sheriffes moote, lib. 4. cap. 4. In this Court (as Britton saith *ubi supra*) the Sheriff causeth to bee found out twelve of the most sage, loyall and sufficient men of all the Hundred (for hee kept his turne twice every yeare in each Hundred. *Magna charta.* cap. 35. & *Britton ubi supra*) whom hee charged upon their oathes, to present the truth touching the articles ministred unto them, and set downe by *Britton* in the same Chapter. This done he put all other to their oathes, according to their dozins and villages, truly to present unto the former twelve all things concerning such articles, as by them they shoulde be asked of. But sithence the Hundred Courts are all called to the county by the statute, anno 14. *Edw. 3. cap. 3.* Statut. pri. these Turnes be likewise kept in one chiefe place of every shire, and not severally in every Hundred, as before they were. Of this you may reade more in *Britton* or in *Cromptons Jurisdict.* fol. 230. and in the *Mirror of Justices*, lib. pri. cap. de Turnes.

Turney (*Turneamentum*) commeth of the French (*Tourney i. Decursorium*) It signifieth a marciall exercise of Knights or Souldiers fighting one with another in disport, and is thus de-

fined, *ca. felicit Extra de Turnementis. Turneamenta dicuntur Nundine vel ferie, in quibus milites ex condicione converire, & ad ostentationem virium suarum, & audaciz, temere congregari solent,* This word is used in the statute, anno 24. *Henric. octau. capit. 13.* and as I have heard, it signifieth with us in England those combats, that are made with arming swords on Horse-backe. And I thinke the reason of the name to proceed from the French (*Tourner. i. vertere*) because it consisteth much in agility both of horse and man.

Turno vececomitum, is a writ that lyeth for those that are called to the Sheriffes turne out of their owne Hundred. *Register, c. rig. fol. 174.*

Tuain nithes gest (*hostes duarum noctium*) *Roger Hoveden, parte poster. suorum annalium. fol. 345.* b. who if he did harme to any, his hoste was not answerable for it, but himselfe. See *Tbrid-nithes hawan man.*

Twelve men (*Duodecim homines legales*) is a number of twelve persons, or upwards to the number of 24. by whose discretion all tryals passe both in civil and criminall causes, through all Courts of the common law in this Realme. First for civil causes, when proofe is made of the

matter in question, as the parties and their councell thinke good on both sides, the point of the fact, that they are to give their verdict of, is delivered likewise unto them, which wee call the issue: and then are they put in minde of their oath formerly taken, to doe right betweene party and party, and so sent out of the Court severally by themselves to consider upon the evidence of both sides, untill they be agreed; which done, they returne to the Court againe, and deliver their verdict by the mouth of the foreman. And according to the verdict, Judgement afterward passeth, either condemnatory for the Plaintiff, or absolutorie for the Defendant. These twelve bee called twelve *milites*. *Glanvile, lib. 2. cap. 14. & 15.* and so be they in *Braclton* divers times: but that word is altered.

In causes criminall there bee two sorts of Enquests, one called the grand Enquest, and the other the Enquest of life and death. The grand Enquest is so called, either because it consisteth commonly of a greater number then twelve, as of twenty foure, eighteene, or sixteene at the least, or else because all causes criminall or penall first passe through them: whereas the other Enquest is especially appointed for

one or few matters touching life and death, committed to their considerations. Those of the grand Enquest are also called by *Braclton 12. milites lib. 3. tract. 2. cap. pri. num. 2.* because they were wont to bee Knights, as it seemeth, and not inferiours, except so many Knights could not bee found, *Idem eodem, num. 1. in fine.* And their function is to receive all presentments made unto them of any offence, and accordingly to give their general opinion of the presentment by writing either these words (*Billa vera*) upon the bill of presentment, which is an inditement of the party presented: or else this word (*Ignoramus*) which is an absolving of him. Now as criminall causes bee of two sorts, either capitall touching life and member, or finable: so is there a double course of these Inditements. For in causes onely finable, the party indited must either travers the Inditement by denying it, and so it is referred to a petit Jury, whereby hee is either convicted or discharged of the crime, or else he confessing it, the Court setteth his fine upon his head without more worke. But in matters of life and death, the party indited is commanded to hold up his hand, and answere (guilty) or (not guilty) if (guilty) he standeth convicted by his owne confessi-

fession : if (not guilty) he is farther referred to the Enquest of life and death : which consider upon the proose brought against the prisoner , and accordingly bring in their verdict (Guilty) or (not Guilty) so is hee judged to die , or delivered by the Court . Of this reade more in Inditement , Assise , Jury . See the statute , anno 35. H.8. cap. 6. & 37. ejusdem, cap. 22. & anno 2. Ed. 6. cap. 32. & anno 5. Eliz. cap. 25.

VAcation (*vacatio*) hath an especiall signification in this Kingdome , being used for all that time respectively which passeth between terme and terme at London . And when such times , begunne and ended in our auncestors dayes , see Roger Hovedens annals parte posteriori , fol. 343. a. where you shall find that this intermission was called (*pax Dei & ecclesie.*)

Vaccarie , alias vacharie (*vaccaria* , alias *vacheria*) seemeth to be a house to keep kine in , *Fleta* , lib. 2. cap. 41. sect. Item inquiratur 12. and *Cromptons Jurisd.* fol. 194. in these words : without warrant no subject may have within the Forest a vacarie . But in the statute anno 37. H.8. cap. 16. I finde vacharie to bee , as it were a speciall proper name , of a certaine quantitie and compasse of ground

within the Forest of Ashdowne .

Valere (*valentia, valor*) The word is in it selfe plaine enough : But I cannot omit one place in *M. West. parte 2. symbol. titulo Inditements. sect. 70. V. W.* touching the difference betweene value and price . These be his words . And the value of those things , in which offences are committed , is usually comprised in Inditements , which seemeth necessary in theft , to make a difference from petit larceny : and in trespass , to aggravate the fault , and increase the fine . But no price of things , *se re nature* , may be expressed , as of Deere , of Hares , &c. If they bee not in Parkes , and Warrens , which is a liberty , anno. 8. Edward 4. fol. 5. nor of Charters of land . And where the number of the things taken , are to be expressed in the Inditement , as of young Doves in a Dove-house , young Hawkes , in a wood , there must bee said (*pretii*) or (*ad valentiam*) but of divers dead things *ad valentiam*) and not (*pretii*) of coine , not current , it shall bee (*pretii*) but of coine current , it shall neither bee said (*pretii*) nor (*ad valentiam*) for the price and value thereof is certaine . But of counterfeit coine , shall bee said (*ad valentiam*) and in counterfeiting of coine shall not bee said (*decem libras in de-*

riis Dominae Regiae) nor (in pecunia Dominae Regiae) but (ad instar pecuniae Dominae Regiae.)

Valour of mariage (*Valore matrimonii*) is a writ that lyeth for the Lord, having profered covenable mariage to the Infant, without disparidgement, against the Infant, comming to his yeares, if hee refuse to take the Lords offer. And it is to recover the value of the mariage. *Regist. orig. fol. 164. Old. nat. br. fol. 90.*

Variance, commeth of the French (*varier. i. alterare*) it signifieth in the common law, an alteration, or change of condition after a thing done. For example, the Communaltie of a Towne make a composition with an Abbot. Afterward this Towne by a graunt from the King obtaineth Bayliffes. This is a variance, and in this case, if the Abbot commence any suite for breach of the composition, hee must vary from the words of the Communaltie set downe in the Composition, and begin against the Bayliffes and the Communalties. *Brooke tit. Variance, fol. 292.* It is also used for an alteration of some thing formerly laid in a plee, which is easilier knowne what it is, then when it may be used, as it appeareth by *Brooke* through the whole title aforesaid : See *variance* in the new

booke of *Entries*.

Vassall, (*vassallus*) signifieth him, that holdeth land in fee of his Lord, *Hot. verbo Fendal*: wee call him more usually a Tenant in fee : whereof some owe fidelitie and service, and are called *vassalli jurati* : some that owe neither, and are called *vassalli injurati*. But of this later sort, I thinke that in *England* wee have not any. Of these thus writeth *Hotom*, in his disputationes upon the Feuds, *cap. 3.* *Proprietè est vassa dicitur, qui ab Imperatore regale fendum accepit, vassallus autem ὑποχρειστός, diminutivo nomine qui ab illo feudale beneficium adeptus est : quasi qui in vassi fide & clientela est, &c.* *M. Skene de verbor. signif. verb. Ligentia*, saith, that *vassallus* is divided into *Homologum, & non homologum*; *Homologus* is he that sweareth service with exception of a higher Lord : and *non homologus*, is he that sweareth without exception, all one with *Ligentia*. And the same Author verb. *Vassallus*, saith, that it is *vassallus, quasi bassallus, id est, inferior socius*. From the French (*bas. i. humili, dimissus*) and the Dutch word (*gesel. i. socius :*) his reason is, because the vassall is inferior to his Master, and must serve and reverence him : and yet he is in manner his companion, because each of them, is obliged one

one to the other. He saith farther out of *Cujacius*, lib. prim. de Feud. that *leades*, *leodes*, *fideles*, *homines nostri*, *feudatarii*, *ministeriales*, *beneficiarii*, *beneficiati*, *vassalli*, signifie almost all one thing. And a little after hee saith thus: In the lawes of the Feuds, *vassallus* is called *fidelis*, *quia fidelitatem jurat*. Amongst vassals, the first place of dignitie is given to them that are *Duces*, *Marchiones*, *Comites*, and are called *Captanei Regni*. The second is granted to Barons, and others of like estate, and are called *Valvassores Majores*. The third to them who are called *Gentlemen* or *Nobles*, holding of Barons; which also may have under them vassals that be Gentlemen. And such vassals holding in chiefe of Barons, are called *Valvassores Minores*. And they which hold of Gentlemen, are called *Vassalli*, *valvassini*, *seu minimi valvassores*. But in this Realme (hee speaketh of *Scotland*) they that hold of Barons, are called *Milites*, and they that hold of them, are called *Subvassores*. Thus far Master *Skene*.

Vasto, is a writ that lyeth for the heire against the tenent, for terme of life, or of yeares, for making waste, or for him in the Reversion or remainder, *Fitzb. nat. br. fol. 55. Regist. orig. fol. 72. & 76*, and *Regist. Judicial. fol. 17.*

21, 23, &c. 69. v. anno 6. Edw. pri. cap. 5.

Vavasour (*vavasor*, alias, *valvassor*) is one that in dignity is next unto Baron. *Camden Britan. pag. 109. Bracton*, lib. prim. cap. 8. saith thus of this kind of men: *Sunt & alii potentes sub Rege, qui dicuntur Barones, hoc est, roburi belli: sunt & alii qui dicuntur Vavasores, viri magne dignitatis. Vavasor enim, nibil melius dici poterit, quam vas fortium ad valetudinem. Jacobutius de Franchis in preludio Feudorum. tit. prim. num. 4. &c.* calleth them *Valvassores*, and giveth this reason of it: *Quia assident valvae. i. porte Domini in festis, in quibus consueverunt homines curtizare & eis reverentiam exhibere, propter Beneficium eis collatum, sicut libertus patrono: M. Camden in his Britan. pag. 108. hath these words of them: Primis etiam Normannorum temporibus, & Thani proximi à Comitibus in dignitate censebantur. Et valvassores majores (si illis qui de feudi scribunt credimus) iidem fuerunt Barones.*

Venditioni exponas, is a writ Judiciall, directed to the under-Sheriffe, commanding him to sell goods that hee hath formerly by commandment taken into his hands, for the satisfying of a judgement given in the Kings Court, *Register Judiciall, fol. 33. b.*

Venire facias, is a writ judiciale, and goeth out of the record, lying where two parties plead, and come to issue, sc. upon the saying of the Countrie. For then the partie Plaintiff, or Defendant shall have this writ directed to the Sheriff, that hee cause to come twelve lawfull men of the same Countrie, to say the truth upon the said issue taken. And if the Enquest come not at the day of this writ returned, then shall goe a *Habeas corpora*, and after a Distresse untill they come. *Old nat. br. fol. 157.* See how diversly this writ is used in the table of the *Register Judiciall*. There is also a writ of this name, that is origianall, as appeareth in the *Register orig. fol. 200. b.* which *M. Lamberd* in his Processes annexed to his *Eirenarcha* saith to be the common Processe upon ane presentment not being felonie, nor especially appointed for the fault presented by Statute. Whereof he setteth downe an example in the same place. See also the new booke of Entries, *verbo Enquest. fol. 253. columnna 1, 2, & 3.*

Venire facias tot matronas. See *Ventre inspiciendo*, See *Lamb. Eirenarcha. li. 4. c. 14. pa. 532.*

Venew (*vicinetum*) is taken for a neighbour, or neare place. As for example, twelve of the Assize ought to bee of the same Venew

where the demand is made, *Old nat. br. fol. 115.* and in the Statute anno 4. H. 4. c. 26. & anno 25. H. 8. cap. 6. I find these words: And also shall retorne in every such panell upon the (*venire facias*) six sufficient Hundreders at the least, if there be so many within the hundred where the *Venew* lieth.

Ventre inspiciendo, is a writ for the search of a woman, that with shee is with child, and thereby with-holdeth land from him that is the next heire at the common law, *Register originall. fol. 227. a.*

Verdour (*viridarius*) commeth of the french (*verdeur. i. Saltuarius, vel custos nemoris*) hee is (as *M. Manwood, parte pri. of his Forest lawes, pag. 332.* defineth him) a Judiciall Officer of the Kings Forest, chosen by the King, in the full countie of the same Shire, within the Forrest, where he doth dwell, and is sworne to maintaine, and keepe the Assises of the Forest, and also to view, receive, and inrolle the Attachements and presentments of all manner of Trespasses of the Forest of vert, and venison. And the same Authour upon the first article of *Canutus Charter*, in the beginning of the same part, saith, that these in the Saxons times were called (*Pagened*) being foure in number, and they chiefe

chiefe men of the Forest, as then they were. Their Fee was in *Caroniu* time, each of them evertie yeare of the Kings allowance, two horses, one of them with a saddle, another of them without a saddle, one Sword, five Javelings, one Speare, one Shield, and ten pounds in money. These fourre (as appeareth by the said Charter, num. 11.) had *regalem potestatem*, and might proceed to a three-fold judgement: And if any man offered them, or any of them violence, If hee were a free man, hee should loose his freedome, and all that hee had: if a villein, hee should loose his right hand. And all the Officers of the Forest were to bee corrected and punished by them; *Ibidem*, num. 10. The verdour is made by the Kings writ, *Cromptons Jurid.* fol. 165. the forme of which writ you have in *Fitzherb.* nat. brev. fol. 164. which is directed to the Sheriffes for the choise of him in a full Countie, by the assent of the said Countie. Yet if a verdour bee suddenly sicke or dead, at the time of the Justice seate, a new may be chosen without a writ, *Manwood*, parte prim. pag. 72. the office is (as Crompton saith *loco allegato*) properly to looke to the vert, and to see that it be well maintained. Allo when any forfeiture is taken in the Forest be-

fore the Foresters, or other ministers: the price thereof shall be delivered to the verdour, who is to answer for it before the Justices in *Eyre*. And if hee die, his heire is chargeable therewith. *Crompton ibidem*. The forme of his oath at his admittance you may see in *Manwoods* first part of his Forest lawes: pag. 51. who there calleth him *verderour, alias, veradictor*. You shall truely serve our Soveraigne Lord the King, in the office of a *verderor* of the Forest W. you shall to the uttermost of your power, and knowledge, doe for the profit of the King, so farre as it doth appertaine unto you to doe. You shall preserve and maintaine the ancient rights and franchises of his Crowne: you shall not conceale from his Majestie any rights or privilegedes, nor any offence either in vert or venison, or any other thing. You shall not withdraw, nor abridge any defaults, but shall indeavour your selfe to manifest and redresse the same, and if you cannot doe that of your selfe, you shall give knowledge thereof unto the King, or unto his Justice of the Forest. You shall deale indifferently with all the Kings liege people: you shall execute the lawes of the Forest, and doe equall right and justice, as well unto the poore, as unto the rich

in that appertaineth unto your office : you shall not oppresse any person by colour thereof, for any reward, favour or malice. All these things you shall to the uttermost of your power observe and keepe. Their office is farther expressed, *codem*, pag. 93. which is to sit in the Court of Attachement, to see the attachements of the Forest, to receive the same of the Foresters and Woodwards, that doe present them, and then to enter these attachements into their Roles.

Verdict, (*veredicatum*) is the answer of a Jurie or Enquest made upon any cause civil or criminal, committed by the Court to their consideration or triall. And this verdict is two-fold : either generall or especiall, *Statu. pl. cor. lib. 3. cap. 9.* A generall verdict is that, which is given or brought into the Court, in like generall termes to the general issue : as in an action of *diseisin* the Defendant pleadeth, *No wrong, no diseisin*. Then the issue is this in generall, whether the fact in question be a wrong or not. And this committed to the Jurie, they upon consideration of their evidence, come in and say, either for the Plaintiff, that it is a wrong, and *diseisin*: or for the Defendant, that it is no wrong, no *diseisin*. And againe, the prisoner at the barre

pleading, Not guilty : the Enquest in like generall termes bring in their verdict, either for the King, Guilty; or for the prisoner, Not guilty. A speciall verdict is that, whereby they say at large, that such a thing, and such, they find to be done by the Defendant, or Tenant, so declaring the course of the fact, as in their opinions it is proved : and for the qualitie of the fact, they pray the discretion of the Court. And this speciall verdict, if it containe any ample declaration of the cause, from the beginning to the end, is also called a verdict at large. Whereof reade divers examples in *Statu. pl. cor. lib. 3. cap. 9.* and one or two in *Littleton*, fol. 78, & 79. See the new booke of Entries. verb. *Verdict*.

Verge, (*virgata*) may seeme to come from the French (*verger*. i. *viridarium, hortus*). It is used here in England for the compasse about the Kings Court, that boundeth the jurisdiction of the Lord Steward of the Kings household, and of the Coronor of the Kings house, and that seemeth to have beene 12. miles compasse, *auno 13. R. 2.* *Stat. prim. cap. 3. & Fitzb. nat. br. fol. 24. B. and Britton, fo. 68. b. 69. a. and Fleta, lib. 2. cap. 2. and Sir Edward Cookes Reports, li. 4. fol. 47. a.* For this see the Statute,

tute, anno 33. Hen. 8. cap. 12. toward the end. But Flta saith, that this compasse about the Court is called *virgata*, à *virga*, *quam Mariballus portat ut signum sue potestatis*, lib. 2. cap. 4. sect. prim. Verge hath also another signification, and is used for a sticke, or rod, whereby one is admitted tenent, and holding it in his hand fweareth fealtie unto the Lord of a manour: who for that cause is called Tenent by the Verge. *Old. nat. br. fol. 17.*

Vergers (*virgatores*) be such as carry white wands before the Justices of either banke; &c. Flta, lib. 2. cap. 38. otherwise called Porters of the Verge.

Very Lord, and very Tenent (*verus Dominus, & verus Tenens*) are they that be immediate Lord and Tenent one to the other; Brooke, titulus, Hariot, fol. 23. In the old. nat. br. and in the writ (*Replegiare de averiis*. fol. 42.) I find these words: And know yee that in taking of leases, six things are necessary: that is to say, very Lord and very Tenent, Service behind, the day of the taking, scisin of the services, and within his Fee. And know yee, that a man is not very tenent, untill he have atturned to the Lord by some services. So that by Brooke, the very Lord, and the very Tenent, must be immediate, and by this booke there must be an ac-

knowledgement. See *anno 19. Hen. 7. cap. 15.* See *Tenant.*

Vert (*viride*) is made of the French (*verd. i. viridis*) and signifieth with us in the lawes of the Forest, every thing that doth grow, and beare greene leafe, within the Forest, that may cover and hide a Deere. *Manwood* in the second part of his Forest lawes, fol. 6. a. and fol. 33. b. (with whom also *Crompton* agreeth, fol. 170. of his Jurisd. And *vert* (as the same Author saith, *codem*, fol. 34.) is divided into *Over vert*, and *Neather vert*. *Over vert*, is that, which the Lawyers call (*Hault bois*) and *Neather vert*, is that which they call (*Sonth bois.*) And of this you may reade him in his second part of Forest lawes, cap. 6. *per totum*. Where you shall find, that hee divideth vert into generall, and speciall: Generall is, as it is bove defined: vert speciall, is every tree and bush within the Forest to feed the Deere withall: as Peare trees, Crab-trees, Hawthornes, Black-bush, and such like. And the reason of this name is, because the offence of destroying of such vert, is more highly punished then of any other, according to the quantitie thereof, *codem*, cap. 6. nuns. 2. fol. 35. a.

Vervise, otherwise ca'led Plonkets, anno 1. R. 3. cap. 8. a kind of cloath.

Vesses, anno 1. R. 3. cap. 8. & anno 14. & 15. H. 8. cap. 11. otherwise called, Set clothes.

Vesture (Vestitura) is a French word signifying a garment : but in the use of our common Law, turned metaphorically to betoken a possession, or an admittance to a possession. So it is taken, *Westm. 2. cap. 25. anno 13. Ed. prim.* And in this signification is it borrowed from the Feudists, with whom (*Investitura*) signifieth a delivery of possession by a speare, or staffe, and *vestitura*, possession it selfe. *Hotoman, in verbis feudal. verbo Investitura.*

Vesture of an acre of land, an. 4. Ed. prim. stat. prim. is the profit of it, & *anno 13. Edward 1. cap. 25.*

Vice-treasurer of the Exchequer, 1. Jacob. 26. See *Under-treasurer of England.* See *Treasurer of the Exchequer.*

View of frank pledge, (visus Franci plegii) is the office which the Sheriff in his County Court, or the Bayliffe in his Hundred, performeth in looking to the Kings peace, and seeing that every Free-man be in some pledge. This is called of *Bratton, lib. 2. cap. 5. nu. 7. in fine, Res quasi sacra, quia solam personam Regis respicit, & quod introductus sit pro pace & communis utilitate, eodem, cap. 16. num. 8. in fine.* See *franke*

pledge, and Leete, and Decennier. See the new booke of *Entries, verb. view of frank pledge.*

*Veivers (visores) commeth of the French (Veoyer. i. cernere, intueri, despicer, prospicere, videre) and signifieth in our common Law those, that are sent by the Court to take view of any place in question, for the better decision of the right. Old nat. br. fol. 112. So doth Bracton use it, lib. 5. tract. 3. cap. 8. per totum. It signifieth also those, that are sent to view such as esouine themselves de malo letti, whether they be in truth so sicke, as they cannot appeare, or whether they counterfeit. Bracton, lib. 5. tract. 2. cap. 10. & cap. 14. per totum. Lastly, it is used for those that are sent or appointed to view an offence, as a man murdered, or a Virgin ravished. See *View.**

Vicario deliberando occasione ejusdam Recognitionis, &c. is a writ that lieth for a spirituall person imprisoned upon forfeiture of a Recognisance, without the Kings writ. *Reg. orig. fol. 147.* See *statuta mercatorio contra personam ecclesiasticam.*

Vici & venellis mundandis, is a writ that lyeth for a Major and Bayliffes of a Towne, &c. For the cleane keeping of their streets. *Regist. orig. fol. 267. b.*

View (visum) commeth of the French

French (*vewe. i. visus, aspectus, conspectus, prospectus*) and signifieth with us, the act of viewers. For (as the Author of the Termes of Law faith) when any action reall is brought, and the Tenent knoweth not well what land it is, that the Demandant askereth, then hee may pray the view: that is to say, that hee may see the land, which is claimed: of this Britton speaketh, *cap. 45.* This point of proceeding wee have received from the Normans, as it appeareth by the Grand custumary, *cap. 66.* where you shall reade to this effect. It is to be knowne that there bee divers sorts of viewes: one of a Fee, another of a man in sicknesse, another of an offence, as of a man slaine, or a Virgin deflowered: all which hee describeth in that place; and againe, *cap. 80. & 96.* which are worth the reading: this view at this day is used in an Assise of rent service, rent charge, or rent seck. *Fitzb. nat. br. fol. 178.* D. and in a writ *de Curia claudenda.* *Idem, fol. 128.* B. In a writ of *Nusance.* *Idem, fol. 183.* L. N. O. In a writ *Quojure.* *Idem, fol. 128.* L. In the writ *de rationabilibus divisis.* *Idem, fol. 129.* D. And in the writ *de scelta ad molendinum,* *Idem, fol. 123.* B. See the new booke of *Entries verb. View,* and see *Fleta* how this view is made, *lib. 4. cap. 6.* See *Venours.*

Vicechamberlaine, called under-chamberlaine, anno 13. R.2. stat. 2. cap. 1. is a great Officer in Court next under the Lord Chamberlaine, and in his absence hath the command and controlement of all officers superior and inferior whatsoever, appertaining to that part of his Majesties houshold, which is called the Chamber, wherein is included as well the Bed-chamber, as the Privie-chamber, the Presence, and the great Chamber, and all other roomes, as Galleries, &c. thereto belonging, with the Councell-chamber, Privie Closter, &c. And in the Lord Chamberlaines absence hee keepeth his Table in the great Chamber, commanding and overseeing the attendance of all, to whom it appertaineth to bee ready, and waiting on his Majestie going to the Chappell, or to speake with Ambassadours, or else walking or riding forth.

Vicount, alias Viscount (vicecomes) commeth of the French (*vicompte. i. Procomes*) and signifieth with us as much as Sheriffe. Betweene which two words I finde no other difference, but that the one commeth from our Conquerours the Normans, and the other from our Auncestors the Saxons, wherefore see more of this in

Shyreeve. Vicount also signifieth a degree of Nobilitie next unto an Earle, which (as *M. Camden, Britan.* pag. 170. saith) is an old name of office, but a new one of dignitie, never heard of amongst us, untill *Henry* the sixth his dayes. But this degree of honour is more ancient farre in other Countries. *Cassan in gloria mundi,* parte 5. confid. 55. whom you may reade.

Vicountie, is an Adjective made of *Vicountie*, and signifieth as much as belonging to the Vicount; as Writs *Vicountiel* are such Writs as are triable in the Countie, or Sheriffes Court. *Old. nat. br. fol. 109.* Of this kind you may see divers Writs of *Nusance* set downe by *Fitzherbert* in his *nat. br. fol. 184. b.* There be also certaine fermes called *Vicountiels*, which the Sheriff for his time payeth a certaine rent for to the King, and maketh what profit he can of them. See the statutes, anno 33. & 34. H. 8. c. 16. & anno 2. & 3. Ed. 6. cap. 4. and anno 4. H. quint. capite secund.

Vi laica removenda, is a writ that lyeth for the removing of forcible possession of a benefice kept by lay men. And this writ is graunted some time upon the Certificate of the Bishop into the Chauncery, that there is such a force in his Dioces: some

time upon a surmise made thereof by the Incumbent himselfe, without the certificate of the Bishop, and hath a severall forme for either case. *Fitzb. nat. br. fol. 54 Register, origin. fol. 59. & 60.*

Villinis Regis subtractis redditis, is a writ that lyeth for the bringing backe of the Kings bondmen, that have beene carried away by others out of his manors, whereto they belonged. *Register, origin. folio 87. b.*

Villein (*villanus*) comineth of the French (*vilain. i. illiberatus, impurus, viles, turpis*) and signifieth in our common Law, a bondman, or as much as *Servus* among the Civilians. Of these there be two sorts in *England*, as Sir *Thomas Smith* saith in his *Repub. Anglo. lib. 3. cap. 8* one termed a Villein in grosse, which is immediately bound to the persons of his Lord and his heires, the other a villein regardant to a manor, whom the Civilians terme (*Glebe ascriptitium*) being bound to their Lord, as members belonging and annexed to such a manour, whereof the Lord is owner. This division is affirmed by divers places of our common law Writers: as in the *Old. nat. br. fol. 8.* You have these words. Know yee that a woman shall be indowed with

with a villein in grosse, &c. and againe, fol. 39. If a man doe menace or threaten any villeines, which are regardant to a manor, &c. Bracton hath another division of villeines, which is all one with the Civilians. For in his first booke, cap. 6. num. 4. he saith thus: *Servi autem nascuntur aut sunt:* and then thus goeth forward: *Nascuntur ex nativo & nativa alienigenis copulatis vel solutis, sive sub potestate Domini constituti sunt, sive extra potestatem.* Item *nascuntur servi qui ex nativa soluta generatur, quamvis ex patre libero: quia sequitur conditionem matris quasi vulgo conceptus, &c.* And after divers things delivered of this sort, he saith againe thus: *Fiunt etiam servi liberi homines captivitate de jure Gentium, &c.* *Fit etiam servus liber homo per confessionem in Curia Regis factam: ut cum liber homo sit in Curia Regis, & se cognoscat ad villanum. Item liber homo sit servus, si cum semel manumissus fuerit, ob ingratitudinem in servitutem revocetur. Item fit liber homo servus, cum ab initio clericus vel monachus factus fuerit, postea ad secularis vitam redierit.* Quia talis restituti debet Domino suo. v. Tiraquellum de Nobilitate. cap. 2. pag. 14. num. 54: In very many Provinces of France there be certaine men called *Chermines manus mortue*, qui tanta iuri similitudine adscriptiis colonis

coniuncti, & prope iidem videntur. Non autem servi sunt omnino, sed in territorio domini sunt, tanquam alligati, non habentes demigrandi potestatem. Itaque servi corporis & prosecutionis vulgo dicuntur, quod si fugerint, potest eos prosequi dominus & capere. Tributum autem isti & nonnullas commoditates domino prestant: in quibus hac maxima, quod ipsis vita functis sine labore, succedit dominus vel ex toto vel ex parte. *Conuanus*, lib. 2. cap. 10. num. 3. whose words I thought not unfit for this place, because they expresse the nature of our villenage something aptly.

Villein fleeces, anno 31. Ed. 3. cap. 8. are fleeces of Wooll that are shorne from scabbed Sheepe.

Vidimus, anno 15. H. 6. ca. 3.

Villenage (Villenagium) commeth of (villein) and signifieth a servile kind of tenure belonging to lands or tenements; that is, a tenure of lands or tenements, by such a service, as villeines are fited to performe. For every one that holdeth in villenage, is not a villein, or a bond man. Villenagium vel servitium nihil detrabit libertatis, habita tamen distinctione, utrum tales sint villani, & tenuerint in villano soccagio de dominico Domini Regis. Bracton, lib. prim. cap. 6. num. prim. Britton in his 66. chapter speaketh to this effect:

effect : Villenage is a tenure of the demesnes of a Lord delivered to a Tenant at the Lords will, by villenous services, to improve it to the Lords use, and delivered by the Rodde, and not by any Title of Writing, or Succession of Inheritance, &c. And a little after he hath words to this effect : In the Manors of our Auncient Demesnes, there be pure villeines both by bloud and tenare : the which may be cast out of their tenement, and deprived of their chatels, at the pleasure of the Lord. By which two places I gather, though villein tenure doe not alway make the Tenent a villein : yet that there is a two-fold tenure called villenage: one wherin both the person and the tenure is bound, and in all respects at the disposition of the Lord: and another, which in respect of the tenure, is after a sort servile, though the person be not bond. This is well proved by Bracton, lib. 2. ca. 8. num. 3. in these words : *Item tenementum non mutat statum liberi, non magis quam servi : Poterit enim liber bono tenere parum villenagium, faciendo quicquid ad villanum pertinebit, & nibilominus liber erit, cum hoc faciat ratione villenagii, & non persona sue : & ideo poterit, quando volunt, villenagium deferre, & liber discedere, nisi illaqueatus sit per uxorem suam ad hoc faciendum, ad*

quam ingressus frui in villenagium, & que prestare poterit impedimentum, &c. So that a man may hold in pure villenage, and yet bee a free man in respect of his person. But what is pure villenage ? Bracton answereth in the words there next following : *Parum villenagium est, a quo prestatur servitium incertum & indeterminatum, ubi scrii non poteris vesper, quale servitium fieri debet manu.* viz : *nbi quis facere tenetur quicquid ei preceptum fuerit.* The other sort of villenage which is not pure, is there called of Bracton (*villanum soccagium*) which differeth from the other in this, because it is onely tyed to the performance of certaine services agreed upon betweene the Lord and the Tenent. Whereof see Bracton also in the same place : by whom you may perceive, that a man may hold (*per villanum soccagium*) and yet have *liberum tenementum* if he have it to himselfe and his heires. This villanous soccage is to carry the Lords dung into his Fields, to plow his Ground at certaine dayes, sow and reap his Corne, plash his Hedges, &c. See Socage.

Villenous judgement (*Villanum judicium*) is that which casteth the reproach of villeny and shame upon him against whom it is given, as a Conspirator, &c.

Starnf.

Statut. pl. cor. li. 3. c. 12. f. 175. This M. Lamb. in his *Eirenarcha*, li. i. ca. 13. pag. 63. calleth villainous punishment, and saith that it may well be called infamous, because the judgement in such a case shall be like the ancient judgement in Attaint (as it is said anno 4. H. 5. *Fitzb. Judgement*, 220.) and is in 27. lib. *Affis. pl. 59.*) set downe to be, that their oathes shall not be of any credit afterward, nor lawfull for them in person to approach the Kings Courts: and that their lands and goods be seised into the Kings hands, their trees rooted up, and their bodies imprisoned, &c. And at this day the punishment appointed for perjurie, (having somewhat more in it then corporall or pecuniary paine) stretching to the discrediting of the testimony of the offender from ever after, may be partaker of this name. Thus far M. Lambard.

Virgata terre, Reg. orig. fo. 167.
a. See *Tard land*.

Viridario eligendo, is a writ that lyeth for the choise of a verdour in the Forest, Register origin. fol. 177.

Visitation of maners (*Visitatio morum*) was wont to be the name of the Regarders office in ancient time, *Manwood, parte pri.* of his Forest lawes, pag. 195. See *Regarder*.

Vifne (*Vicinetum*) signifieth a

neighbour place, or a place neere at hand, anno 16. R. 2. c. 6.

Vise Franciplegii, is a writ to exempt him from comming to the view of Frankpledge, that is not within the Hundred resident. For men are bound unto this view by reason of their habitation, and not of lands held where they dwell not, *Regist. orig. fol. 175.*

Vitteller (*victualsarius*) commeth of the French (*victuailier*. i. *commeatus*) and signifieth with us, him that selleth victuals. For these there is a writ in *Fitzherbert, nat. brev. fol. 172.* if they exercise their trade; bearing a magistracie in any Towne Corporation.

Umpire, anno 3. *Edvardi* 4. cap. 5.

Uncore prift, is a plice for the Defendant, being sued for a debt due at a day past, to save the forfeiture of his bond; saying, that he tendered the debt at the time and place; and that there was none to receive it, and that hee is now also readie to pay the same. 7. Ed. 6. 83. *Dyr.* See *Unquest prift*.

Uncuth, is a Saxon word, signifying as much as (*incognitus*) It is used in the ancient Saxon lawes, for him that commeth to an Inne guest wise, and lyeth there for two nights at the most. In which case

his Host was not bound to answer for any offence, that hee committed, whereof hee was guiltlesse himselfe. But if hee laid there the third night, then hee was called (*guest, hospes*) and then must the Host answer for him, as for one of his owne familie. And if hee tarried any longer, then was hee called *Agen bine*, that is to say, *familiaris*. Whom, if hee offend against the Kings peace, his Host was to see forth-comming : or if hee could not bring him out within a month and a day, hee must satisfie for his offence. *Limberd, Archaiono.* fol. 133. num. 7. Of this *Braeton*, lib. 3. cap. 10. num. 2. writeth thus : *Item secundum antiquam consuetudinem dici poterit de familia alicujus, qui hospitus fuerit cum alio per tres noctes : quia prima nocte poterit dici Uncutb, secunda vero Gust, tertiâ nocte Hoghenhaine, &c.* This law was made for the better preservation of the Kings peace, and to shew in what pledge every man was to bee accompted, that travelled by the way. See *Tuannithes gest.*

Unde nihil habet, is a writ. See *Date unde nihil habe'*.

Under-chamberlaine of the Exchequer, is an Officer there, that cleaveth the Tallies, written by the Clerke of the Tallies, and readeth the same, that the Clerke of

the Pel, and the Controllers thereof may see their entrie be true. Hee also maketh searches for all Records in the Treasurie. There bee two Officers there of this name.

Underescheatour. Subescheatour. anno 5. Ed. 3. cap. 4. See *Escheatour*.

Undershyreeve (Subvicecomes) See *Shyreeve*.

Undersitter, is an Inmate. See *Inmate*.

Undertakers, be such as are employed by Purveyours of the King as their deputies anno 2, & 3. *Pb.* & *Ma.* cap. 6. and such as undertake any great worke, as drying of Fennes, &c. anno 43. *Elizab.* cap. 11.

Under-treasurer of England, (vicethesaurarius Angliae) anno 39. *Eliz.* cap. 7. & anno 43. ejusdem. *Subsidie of the Clergie*. This Officer (as some Exchequer men thinke) was first created in the time of King *Henry* the seventh, to chest up the Kings Treasure at the end of every Tearme, and to note the content of money in each chest, and to see it carried to the Kings Treasurie in the Tower, for the ease of the Lord Treasurer, as being a thing too meane for him to bee troubled with, and yet meet to be performed by a man of great secrecie and truit. Hee in the vacancie of the Lord Treasurers

ters office, doth all things in the receipt, that the Lord Treasurer doth. Hee nominateth the two Prayers of all goods seised as not customed, and ordereth, whether the partie shall have them at the price or not. Hee appointeth the Steward, Cooke, and Butler for the provision of the Starre-chamber. But this Officer in other mens judgement, is farre more ancient then Henry the sevenths dayes, yet named Treasurer of the Exchequer in the Statutes, untill Queene Elizabeths time, where hee is termed Under-treasurer of England. Neverthelesse, anno 35. Eliz. he is also written Treasurer of the Exchequer. Reade the Statutes, anno 8. Ed. 3. statut. 2. cap. 17. & 27. ejusdem. Stat. 2. cap. 18. i. Rich. 2. cap. 5. 4. H. 4. cap. 18. 8. H. 6. cap. 17. 27. H. 8. cap. 11. with divers other places, that seeme to approve this to be true.

Union (unio) is a combining or consolidation of two Churches in one, which is done by the consent of the Bishop, the Patron, and the Incumbent. And this is properly called an *union*. Howbeit, that there bee two other sorts: as when one Church is made subject to the other, and when one man is made Prelate of both, and when a Conventuall is made Cathedrall, as you may

reade in the Glosse of the chapter. *Licet De locato & conducto,* in *Lyndwoods Provincials. Scđt. Et quia, verju Appropriationis.* Touching Union in the first signification there was a statute, anno 37. Hen. 8. cap. 21. that it should be lawfull in two Churches, whereof the value of the one is not above sixe pounds in the Kings booke of the first fruities, and not above one mile distant from the other. Union in this signification is personall, and that is, for the life of the Incumbent: or reall, that is, perpetuall, whosoeuer be Incumbent.

Unitie of possession, is called *consolidatio nisfructu, & proprietatis* in the Civill Law, signifying a joyn possession of two rights by severall titles. For example, I take a lease of land from one upon a certaine rent: afterward I buy the Fee-simple. This is an unitie of possession, whereby the lease is extinguished: by reason that I, which had before the occupation onely for my rent, am become Lord of the same, and am to pay my rent to none, but my selfe. Also an Abbot being seated within a certaine Parish, afterward obtaineth an appropriation of the tithes belonging to that Church, for the use of his house. Here is an unitie of possession, by reason that the tythes, which before were to be

paid to the Incumbent, are now to be paid to none but himselfe, by vertue of the appropriation.

Universitie (*Universitas*) is by the Civill Law any body politick, or corporation : but in our language it is (at the least most ordinarily) taken for those two bodies, that are the Nourses of learning, and the liberall Sciences, *Cambridge* and *Oxford*: endowed with great favours, and priviledges, for their better maintenance, as appeareth not onely by anno 2. & 3. *Pb.* & *Mar.* ca. 15. a. 13. *El. c. 21.* & a. 18. *ejus. ca. 6.* but much more by their severall Charters, graunted unto them by divers godly and magnanimous Kings of this land.

Unlawfull assembly, (*Illicita congregatio, illicita assemblata*) is the meeting of three or more persons together, with force to commit some unlawfull act, and abiding still, not endeavoring the execution thereof, as to assault or beate any person, to enter into his house or land, &c. *West. parte 2. symb. titulo, Inditements, sect. 65.* *M. Lamberd* in his *Eirenarcha, cap. 19.* saith thus: An unlawfull assembly is the company of three persons or more, gathered together, to doe such an unlawfull act, although they doe it not indeed. So saith *Kitchin* in effect, *fol. 20.*

Unques prist, is (word for

word) alwayes ready. And it signifieth a Plee, whereby a man professeth himselfe alway ready to doe or performe that, which the Demandant requireth, thereby to avoid charges. For example : a woman sueth the tenent for her Dower : and hee comming in at the first day, offereth to averre, that hee was alway ready and still is, to performe it. In this case except the Demandant will averre the contrary, hee shall recover no damages. When this Plee will serve to avoyd charges, and when not, see *Kitchin, fol. 243.* See *Uncore prist*.

Voydance (*vacatio*) is a want of an Incumbent upon a benefice: and this voydance is double: either in law, as when a man hath more benefices incomptible : or indeed, as when the Incumbent is dead, or actually deprived, *Broke, titulo Quare impedit. n. 51.*

Voucher (*Advocatio*) is a calling in of one into the Court at the petition of a partie that hopeth to be helped thereby. New booke of *Entries, verbo. voucher. voucher de garantie, Brit. cap. 75.* In Latine (*Advocatio ad warantizandum*) is a petition in Court made by the Defendant to have him called, of whom hee or his Ancestor bought the land or tenement in question, and received warrantie for the secure injoying thereof against all men, *Brit-*

Britton of this writeth a long chapter, *ubi supra*, intitulaling it *Garant voucher*. But *Braclton* writeth a large tractate of it, *lib. 5. tractat. 4. per totum, Littleton* also handleth it not min singly, in the last chapter of all his *Tenures*. Of this you may reade *Fitzb.* also in his *nat. br. fol. 134. De warantia charte*. All this law seemeth to have beeene brought into England out of Normandy. For in the *Grand Custumary* you have likewise a chapter intituled (*voucement de garant, cap. 50. id est, vocamentum Garanti*) where it is set downe, what time ought to be given, for the appearance of the warrant called in this case, how many warrants may be vouch'd, one calling in another, and divers other points touching this doctrine. All which, and many more, you may reade in *Braclton, ubi supra*. A common *voucher*, a double *voucher*. *Cooke, lib. 2. Sir Hugh. Cholmeis case, fol. 50. b.* This is very answerable to the contract in the Civill law, whereby the Buyer bindeth the Seller, sometime in the simple value of the thing bought, sometime in the double, to warrant his secure enjoying of the thing bought. But this difference I find betweene the Civill Law and ours, that whereas the Civill Law bindeth every man to warrant the secu-

ritie of that which hee selleth, ours doth not so, except it be especially covenanted. The partie that voucheth in this case, is cal led the *Tenant*, the partie vouch'd is termed the *Voucher*. The writ whereby he is called, is termed *Summoneas ad warrantizandum*. And if the Sheriffe returne upon that writ, that the partie hath nothing, whereby hee may bee summoned: then goeth out another writ, viz. *Sequatur sub suo periculo*. See *Termes of the law*, verbo *Voucher*. And *Lamb.* in his *Explication of Saxon words*, verbo *Advocare*. See *Warrantie*. I reade in the new booke of Entries, of a *foraine voucher*, which hath place properly in some Franchise, County Palatine, or other where one voucheth to warrantie one not dwelling within the Franchise, *fol. 615. column. 1.* whereupon because the Foreyner need not be tryed in that Court, the record and cause is removed to the common plees, &c. See of this *Fitzb. nat. br. fol. 6. E.*

User de action, is the persuing, or bringing of an action, which in what place and countie it ought to be. See *Brooke, titulo Lien & Countie, fol. 64.*

Use (usus) is in the originall signification, plaine enough: but it hath a proper application in our common law, and that is

the profit or benefit of lands or tenements. And out of *M. West's* first part of his *symbol. lib. pri.* sect. 48, 49, 50, 51, and 52. I gather shortly thus much for this purpose. Every deed in writing hath to bee considered the substance, and the adjuncts. Touching the substance, a deede doth consist of two principall parts, namely, the premisses and the consequents. The premisses is the former parte thereof, and is commonly said to bee all that, which precedeth the (*Habendum*) or limitation of the estate, which be the persons contracting, and the things contracted. The consequent is that which followeth the premisses, and that is the (*Habendum.*) In which are two limitations: the one of the estate, or propertie, that the partie passive shall receive by the deed, the other of the use, which is to expresse in the said (*Habendum*) to or for what use, and benefit hee shall have the same estate. And of the limitation of those uses, you may reade many presidents set downe by the same Author in his second booke of his said first part, sect. 308. and so forth to 327. These uses were invented upon the statute called *West. 3. or Quia empories terrarum*, before the which Statute no uses were knowne. *Perkins. Devises, 528.* And be-

cause mens wits, had in time devised many deceits, by the setting of the possession in one man, and the use in another, there was a statute made, anno 27. H. 8. cap. 1. whereby it was enacted, that the use and possession of lands and possessions should alway stand united. New Expositor of law termes, verbo. *Use v. Cooke lib. 1. Chudleise case, fol. 121. & seqq.*

Usher (Ostiarus) commeth of the French (*Huissier. i. Accensum, apparitor. Lanitor.*) It signifieth with us first an officer in the Eschequer: of which sort there be foure ordinary ushers that attend the chiefe officers and Barons of the Court at *Westminster*, and Juries, Sheriffes, and all other accountants at the pleasure of the Court. There be also Ushers in the Kings house, as of the privie Chamber, &c.

Utas (Octave) is the eight day following any terme or feast: as the *utas of Saint Michael*, the *utas of Saint Hilary*, the *utas of Saint Martine*, of *Saint John Baptist*, of the *Trinitie*, &c. as you may reade, anno 51. H. 3. stat. concerning generall dayes in the Bench. And any day betweene the feast and the eighth day, is said to be within the *utas*. The use of this is in the returne of Writs, as appeareth by the same statute.

Utfangtheſe, is an ancient Roytie granted to a Lord of a Manor, by the King which giveth him the punishment of a thiefe dwelling out of his libertie, and having committed theft without the ſame, if hee be taken within his fee. *Braſton*, lib. 2. cap. 24. who in his third booke, tractat. 2. cap. 35. ſeemeth rather to interpret the word, then to exprefſe the effect, and ſaith thus: *Utfangtheſe dicitur extraneus latro, veniens aliunde de terra aliena, & qui captus fuit in terra ipſius, qui tales habet libertates.* It ſeemeth to bee compounded of theſe three words; *Ut, fang, theſe*: which in our moderne English be, out, take or taſken, Thiefe. Of this *Fleta* hath theſe words: *Utfangentheſe dicitur latro extraneus veniens aliunde de terra aliena, & qui captus fuerit in terra ipſius qui tales habet libertates. Sed non sequitur quod poſſit ille hominem ſuum proprium extra libertatem ſuam captum reducere uſq; in libertatem, & ibi eum judicare: reducere tamen poterit judicatum, & judicium in proprio patibulo exequi ratione libertatis: commodum tamen non video. Debet enim quilibet juri ſubjacere, ubi deliquit: proprios tamen latrones & alienos judicare poſſunt, dum tamen infra libertatem fuerint capti, &c.*

Viligbe, ſignificat bannitum ex-

tra legem, Fleta, lib. 1. cap. 47. See Utlawrie.

Utlagatio cxiendo quando utlagatur in uno comitatū, & poſtea fugit in aliūm, is a writ, the nature whereof is ſufficiently expreſſed in the words ſet downe for the name thereof. See the Register originall, fol. 133.

Utlawrie, (*utlagaria, alias utlagatio*) is a punishment for ſuch as being called into law, and lawfully ſought, doe contemnulously refufe to appeare. And as *Braſton* ſaith, lib. 3. tract. 2. cap. 11. Hee that is ſued muſt bee ſought, and called at five Countieſ, a moneth being betweene every Countie, to anſwer to the law. And if he come not within that time, *pro exlege tenebitur cum principi non obediāt, nec legi: & ex tunc utlagabitur*: that is, (as the Author of the Termes of Law ſaith) he ſhall be pronounced by the Coronor, to be out of the Kings protection, and deprived of the benefit of the law. The effect of this is divers, (as the ſame Author ſaith) for if he be out-lawed in an action personall, (he meaneth) at the ſuite of another in a civill cause: he ſhall forfeit all his goods and cartels to the King: if upon felonie, then hee shall forfeit all his Lands and Tenements, that hee hath in tee-simple, or for terme of his life, and his goods

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and cattles, *Bracton*, ubi supra, num. 5. saith, that such as be outlawed upon Felonie, *Ex tunc gerunt caput lupinum, ita quod sine judiciali inquisitione ritè pereant, & secum suum judicium portent, & merito sine lege pereant, qui secundum legem vivere recusarunt.* Et hæc ita, si cùm capiendi fuerint, fugiant, vel se defendant, si autem vivi capti fuerint, vel se reddiderint, vita illorum & mors erit in manu Domini Regis. See Hornes mirroure of Justices, lib. 3. cap. des fautes punishables. *Bracton* saith in the place above specified (with whom also *Fleta* agreeth, lib. 1. cap. 27.) that a Minor or a woman cannot be outlawed. But take his owne words: *Minor vero, & qui infra etatem, 12. annorum fuerit, utlagari non potest, nec extra legem poni, quia ante talam etatem non est sub lege aliqua, nec in Decenna, non magis quam fæmina, que utlagari non potest, quia ipsa non est sub lege.* i. Inlaugh Anglice, sc: in franco plegio, five decenna: *sicut masculus, 12. annorum, & ulterius.* Et ideo non potest utlagari. *Waiviari* tamen bene potest, & pro derelicta haberi, cum pro feloniam aliqua fugam fecerit sine ceperit. Estenim *waivium*, quod nullus advocat, nec princeps cum advocabit, nec tuebitur, cum fuerit rite *Waiviata*: *sicut fit de masculo, qui secundum legem terre ritè fuerit utlagatus, &c.* To the same

effect writeth *Fitzherbert* in his *natura brev.* fol. 161. viz. And because women be not sworne in Leetes to the King, as men be of the age of twelve yeares or upward: it is said, when a woman is outlawed, that shee is waived, but not outlawed, for shee was never under the law, nor sworne unto it. More of this you may reade in *Bracton*, lib. 3. tractat. 2. cap. 12. & 13. and then in the 14. how an out-law is inlawed againe, and restored to the Kings peace and protection. See also *Fleta*, lib. 1. cap. 28. per totum.

Vtrum. See *Affise*.

Utter Baristers, be such, as for their long study, and great industry bestowed upon the knowledge of the common law, be called out of their contemplation to practise, and in the face of the world, to take upon them the protection and defence of Clients. These are in other Countries called (*Licentiati in jure.*) Howbeit, in modestie they still continue themselves hearers for divers yeares, like the Schollers of *Pythagoras*, that for the first five yeares never adventured to reason or discourse openly upon any point of their masters Doctrine, which their silence (*à cohibendo sermone*) was termed *εχεψια*, as *Suidas* and *Zenedorus* doe report.

Utilepe,

Utile significat escam latrem,
Fletz. lib. 1. cap. 47.

W

Wage (*vadere*) proceedeth of the French (*Gage*, i. dare *pignus*, *pignore curare*) and signifieth in our common law, the giving of securities for the performing of any thing : as to wage law, and to wage deliverance ; which see before in *Gage*. None wageth law against the King, *Brooke*, *título Cibos in aliis*, *ann. 9*. The substantive of this verbe is (*Wager*) in the Latine (*vadum*) which some Feudists call (*wadum*) as testifieth *Hottomus* in his Commentaries de verbis feudalibus, *verbis Wadum*. See *Law*.

Wainage (*magnum, aliis wamagnum*) signifieth as much as *præculum servorum*, of the Saxon word *wanw*, i. *habitare*, & *wocing*, i. *habitatio*. See *Gage*.

Waive (*waivere*) (*Regist. orig. fol. 277. a.*) is to forfeite (*baberere pro derelicto*) as the Civilians terme it. *Waiver*: *fudens suum*. *Bracte*, *lib. 2. cap. 7.* that is, to forfeite. Many of the Kings liege people to bee outlawed, and many waived by erroneous process, *ann. 7. H. 4. ca. 13.* See *Placita*. To waive the company of thieves, *Statut. pl. cor. fol. 26.* To waive his benefit, *Item. fol.*

46. To waive the advantage, *Idem præg. fol. 17.* Persons attainted or waived, *West. pars 2. symbol. tit.* *Fines. Sect. 13. D.* This word *waived* *waivata* properly belongeth to a woman, that being sued in law, contempnacul, refuseth to appeare, as outlawed doth to a man, *Regist. orig. fol. 132. b. & 277. a.* The reason whereof see in *Fitz. nat. br. fol. 161. A.* See *Waif*.

Wales (*Wallia*) is a part of England, on the west tide inhabited by the off-spring of the ancient *Bretons* chased thither by the *Saxons*, being called hither by them, to assist them against the might of the *Picts*. The reason of the appellation commeth from the Saxon (*wall*, i. *extenu*, *collegium*) for so the *Saxons* both called them, and held them ; though now, to the great quiet of this Kingdome they be incorporated unto us. See *M. Lambards explication of Saxon words, verbo, Wallas*.

Walkers, seeme to be those that are otherwise called *Forrester*. *Crompus* in his Juridictions, *fol. 154*, hath these words in effect : There bee *Forresters* assygned by the King, which bee *walkers* within a certaine space assygned them to looke unto.

Waiveria mulieris, is as much as *maligatio viri*. *Regist. orig. fol. 132. b.* See *Waive*.

Wapentake (*Wapentakum*) is all one with that, which wee call a Hundred, as appeareth by *Braeton*, lib. 3. tract. 2. ca. pri. nu. pri. in fine. *Convocentur* (saith he) postmodum servientes & Balivi Hundredorum, et per ordinem irrotulenter Huudredarii, five wapentakia, et nomina servientium, quorum qui libet affidabit quod de quolibet Hundredo eliget quatuor milites, qui statim veniant coram Justiciariis ad faciendum præceptum Domini Regis, & qui statim jurabunt, quod eligerent duodecim milites, vel liberos & legales homines, si milites non inveniuntur, &c. *M. Lamberd* in his explication of Saxon words, verbo *Centuris*, is of the same mind: and farther saith, that this word is especially used at this day in the countries be North the river *Trent*. And in the lawes of King Edward, set forth by him, num. 33. it is most plaine in these words: *Et quod Angli vocant Hundredum, supradicti comitatus vocant wapentakum.* But there he nameth some Shires of this side *Trent*: as *Warwick-shire*, *Leicester shire*, and *Northampton shire*. In the words there following, there is a reason given of this appellation in these words: *Et non sine causa: Cum quis enim accipiebat prefecturam wapentakii, die statuto in loco, ubi consuerant congregari, omnes maiores contra eum conveniebant, & descendente de equo*

*suo, omnes assurgebant ei. Ipse vero, erectis lancea sua, ab omnibus secundum morum suorum factus accipiebat. Omnes enim quotquot venissent, cum lanceis suis ipsius bastam tangebant, & ita confirmabant per contractum armorum, pace palam concessa. Anglicæ enim arma vocantur (wspan) & taceare confirmare: quasi armorum confirmatio. Vel ut magis expressè secundum linguam anglicanam dicamus, wapentak armorum tactus est (wspan) enim arma sicut (tac) tactus est. Quomodo enim poterit cognosci, quod hac de causa, totus ille conventus dicitur (wapentac) eo quod per tactum armorum suorum ad invicem conaderati sunt. Thus farre the book goeth word for word. With whom *Fleta* agreeth, saving that *Fleta* saith, that this word is used in all counties be North *Watling-street*, li. 2. ca. 61. q. universimode Take Sir *Thomas Smithes* opinion also: whose words, in his second booke *de Rep. Anglo.* ca. 16. bee these: *Wapentak*, I suppose, came of the *Danes*, or peradventure of the *Saxons*. For that so many Townes came by their order then into one place, where was taken a muster of their armour and weapons: in which place, from them that could not find sufficient pledges for their good abearing, their weapons were taken away. The statute, anno 3. *Henrici 5.* cap. 2. & anno 9. *H.* 6.*

cap. 10. & anno 15. Hen. 6. cap. 7.
T. maketh mention of *Stainclife Wapentake*, and *Frendles Wapentake*, in *Craven* in the County of *Yorke*. See *Roger Hoveden*, *parte poster: suorum annalium sol. 346. b.*

Wards and Liveries (*wardi & liberarie*) is a Court first erected in King *Henry* the eighth his time, and afterward augmented by him with the office of *Liveries*, and therefore called by him (as now it is) the Court of *wards* and *Liveries*. The chiefe of this Court is called the master of the Court, &c. To whom are joyned the *Surveyour*, *Atturney*, and *Receiver* of the said Court, as his Assistants: then as Ministers the *Register*, two inferiour *Attorneys* or *Clearkes*, and a *Messenger*.

Ward (*Custodia*) is the *German* word, as (*Garde*) is the French. Both these bee used among our common Lawyers: the one by those that write in French, the other by those that write in English. Wherefore for your farther understanding, see *Gard* and *Gardein*. Yet is *Gard* sometime used in the English bookees also: as yeomen of the *Gard*. And also the keeper of one in his minority, is not called a *warden* but a *Gardein* or *Gardian*. *Ward* hath divers applications, as a *Ward* in *London*, latined (*wardi*) which is a portion of the *Citie* committed to the especiall

charge of some one of the foure and twenty Aldermen of the *Citie*, in such sort as every one knoweth his certaine ward assignd unto him, and hath dwelling within the same compasse some one grave Citizen for the good government thereof: who is in that respect a Deputy to the said Alderman and commonly calld the Aldermans Deputy. Of these there bee five and twenty within the *Citie*, and one without, beside other liberties and the suburbs. *Stowes Survey of London*. Also a *Forrest* is divided into *wards*: *Manwood*, *parte prim.* of his Forest lawes, pag. 97. Lastly, a prison is otherwise called a *Ward*. And the heire of the Kings tenent, holding by Knights service, or *in capite*, or of any common person by Knights service, is called *Ward*, during his honage, See *anno 32. Hen. 8. cap. 46.*

Warden (*Gardianus*) signifieth all one thing with the French (*Gardein*) And therefore of this see more in *Gardien*. But it is the more usuall word of all that write in English, for him that hath the keepeing or charge of any person or thing by office: as *VVardens* of *Fellowships* in *London*, *anno 14. Hen. 8. cap. 2.* *Warden courts*, *anno 31. H. 6. cap. 3.* *Warden of the Marches*, *an. 4. Hen. 7. cap. 8.* *Wardens and Com-*

minalitie of the lands contributorie unto Rochester bridge, anno 18. Eliza. cap. 7. Wardens of peace, anno 2. Ed. 3. cap. 3. Statute Northampton. Warden of the West Marches. Cambd. Brit. pag. 606. Warden of the Forest. *Manwood*, parte pri. pag. 111. & 112. Warden of the Aulnage, anno 18. Hen. 6. cap. 16. Chiefe Warden of the Forest. *Manwood* parte pri p. g. 42 & 43. VVarden of the Kings wardrobe, anno 51. H. 3. statut. quinto. VVardens of the tables of the Kings Exchange, anno 9. Edw. 3. statut. 2. cap. 7. & anno 9. Hen. 5. stat. 2. cap. 4. VVardens of the rolles of the Chauncery, anno 1. Edw. 4. ca. 1. & cap. 5. VVarden or Clearke of the Hamper of the Chauncery. Ibid. VVarden of the Kings writs, and Records of his common bench, ibid. VVarden of the Kings armour in the tower, an. 1. Ed. 4. cap. 1.

Wardnote, is a Court kept in every ward in London, anno. 32. Hen. 8. cap. 17. ordinarily called among them, the *Wardnote* Court.

Ward peny, is money to bee contributed toward watch and ward.

Warantie (*warantia*) commeth of the French (*garantie*) or (*garant*) i. *vindex litis*:) which is a word of great antiquity with the French men, being brought

first thither by the *Francogalli*. And hence doe they make a Latinish verbe, viz. (*guarentare*) vel, ut est in aliis libris, *guarentisare*. i. *causam alterius suscipere*, se defensorem profiteri. The Feudists also use this word (*guarentus*) quo significatur *is*, qui *Latinis author dicitur*, & evictionem prestat. lib. 2. Feud. titulo 34. §. 2. The Civilians have a stipulation (*habere licere*) whereby is signified a power of perpetuall and quiet possession to bee given, lib. 11. §. final. *π de action. empt. & vend.* But this reacheth not so farre as our warrantie. For the Seller hereby is bound but to a kind of diligence and care to maintaine the Buyer in his possession. For if hee bee evicted, the Buyer is not tyed to recompence. *Doctores in l. stipulatio ista Habere licere. π de verb. obliga.* VVarantie signifieth in our common law, a promise made in a deed by one man unto another, for himselfe and his heires to secure him and his heires against all men, for the enjoying of any thing agreed of between them. And hee that maketh this warrantie, is called *Warrantus* by Bracton, lib. 2. cap. 19. & 37. The Romanes called him *Auctoritem*, as Hotoman testifieth in his Commentarie upon Tullies oration pro Aulo Cæcina, verbo, Cesennius author fundi, whom you may

may reade more at large. And that which wee terme *vocationem warranti*, the Civilians call *authoris laudationem vel nominationem*. Eimer *pratt.* cap. 48. This warranty passeth from the seller to the buyer, from the feoffer to the feoffee, from him that releaseth, to him that is released of an action reall, and such like. And for the forme it passeth in a clause toward the end of a deed in these words : *Et ego verò prefatus I. & heredes mei predictas decem acres terre cum pertinentiis suis prefato H. heredibus, & assignatis suis contra omnes gentes warrantizabimus in perpetuum per presentes.* West. parte prim. symbol. lib. 2. titulus *Feofments*, sect. 281. & 288. So a release may be with a clause of warrantie. *Idem, codem, titulus Releases, sect. 510.*

There is also a warrant of Attorney, whereby a man appointeth another to doe something in his name, and warranteth his action, *West. cod. sect. 481.* And these VVarrants of Attorney seeme to differ from letters of Attorney, because that, whereas letters passe ordinarily under the hand and seale of him, that maketh an Attorney by them, before any credible witnesses : warrants of Attorney bee acknowledged before such persons, by such meanes and in such manner, as Fines, *West. parte 2. symbol. titulus Recoveries,*

sect. prim. F. See *Attorney.*

But these warranties in passing land from one to another, bee of greatest consequent, and of more intricate understanding. And therefore of these divers have written at large: as *Glanvile*, lib. 3. per totum. *Braeton*, lib. 5. tract. 4. per totum. *Britton*, cap. 105. *Littleton* in the last chapter of his tenures : the forme and effect whereof *Braeton* in his second booke, cap. 16. num. 10. declareth thus : *Et ego & heredes mei warrantizabimus tali & heredibus suis tantum, vel tali & heredibus & assignatis, & heredibus assignatorum, vel assignatis assignatorum, & eorum heredibus, et acquietabimus, et descendimus eum tam terram illam cum pertinentiis (secundum quod predictum est) contra omnes gentes in perpetuum, per predictum servitium.* Per hoc autem quod dicit (*Ego et heredes mei*) obligat se et heredes suos ad warrantiam, proquinquos et remotos, presentes et futuros ei succedentes in infinitum. Per hos autem quod dicit (*warrantizabimus*) suscipit in se obligationem ad defendendum suum Tenementum in possessione res data, & assignatos suos et eorum heredes, & omnes alios, secundum quod supradictum est, si forte tenementum datum petatur ab antiquo in Dominico. Per hoc autem quod dicit (*acquietabimus*) obligat se & heredes suos ad

acquiet induen, si quis plus petierit servitij, vel aliud servitium, quum in charta donationis continetur: per hoc autem quod dicit (Defendemus) obligat se & heredes suos ad Defendendum, si quis velit servitutem ponere rei dictae contra formam sue donationis, &c. But the new Exponder of law termes saith, that this warrantie beginneth two wayes: one by deed of law: as if one and his ancestors, have held land of another and his ancestors, time out of mind by homage (which is called *Homage auncestrell*) for in this case, the homage continually performed by the tenant is sufficient to bind the Lord to warrant his estate. The other is by deed of the party, which by beed or fine ryeth himselfe to warrant the land or tene-
ment to the tenant. And Sir Ed. Cooke in the fourth booke of his reports, mentioneth the same dis-
tinction. *Nokes case, fol. 81. a.* calling the one a warrantie in law, the other an expresse warrantie. Civilians would call these species, *tacitam & expressim.*

Warranty (As the said Author of the termes of law saith, is in two manners: warranty lineall, and warranty collaterall. But (*Littleton* *faith ubi supra*) it is threefold: warrantie lineall, warranty collaterall, and warranty that beginneth by desseisin. Warranty by desseisin what it is, is

partly declared in Sir Ed. Cookes reports, *b. 3. Fermors case, fol. 78. a.* Whether of them divideth more aptly, let the learned judge. For my part, I thinke that lineall and collaterall bee no essentiall differences of warrantie, as it is originally considered in the first warranter. For he bindeth himselfe and his heires in generall. And such bee bound, bee they lineall or collaterall unto him. Therefore this division riseth rather from the event of the origi-
nall warranty: *videlicet*, because it so falleth out, that the tenent, to whom the warranty was made, or his heires, when hee or they be called into question for the land warranted formerly by the first feoffour, is driven by the meanes of the first warranters death, to call or vouch him to wa-
ranty that is his heire, and now presently living, bee hee decending or collaterall, as it falleth out. For example. *A. infesseth B.* in twenty acres land, with clause of warranty against all men. So long as *A.* himselfe li-
veth hee is liable to this cove-
nant, and none else: after his decease his heire is subiect unto it, be hee his sonne, brother, uncle, or what else. And whether of these, or neither of these it will be, none knoweth untill hee be dead. Wherefore I conclude that this distinction of lineall or collate-

collaterall hath no use originally in this contract. For (as the Author of the termes of Law saith) the burthen of this warrantie , after the death of the first warranter, falleth upon him, upon whom the land should have descended , if the warrantie had not beeene made. And that is the next of blood to the warranter, be hee in the descending or collaterall line. And therefore I resolve that this distinction groweth from an event , after the death of him that covenanteth to warrant. But to make this plaine, I finde warrantie to be used equivocally : signifying one sort , the contract ; or covenant of warrantie first made , as appeareth by Bracton in the place formerly noted : and in another sort the very effect and performance of this contract , either by the Warranter or his heires , when hee or they be by the tenent thereunto vouched , or called. As also I shew out of Bracton , lib. 5. tract. 4. cap. pri. num. 2. in thete words : *Imprimis videndum est quid sit warrantizatio. Et sciendum quod warrantizare nihil aliud est, quam defendere & acquietare tenentem, qui warrantum vocabit in sessua sua, &c.* With whom agreeth Fleta , saying that warrantizare nihil aliud est, quam possidentes defendere, lib. 5. cap. 15. q. 1. & lib. 6. ca. 23. quod lege per totum. And the former division

of Lineall and collaterall warranty , rather belonging to warranty in the second signification then the former.

And that this way, it is imperfect , or at the least obscure , I thinke it not hard to declare. First to shew this , I note out of Bracton , who may be called to warrantie. And he lib. 5. tract. 4. cap. pri. num. 5. saith thus : *Videndum est quis vocari possit ad warrantum, & sciendum, quod tam masculus quam feminis, tam minor quam major (dsum tamen si minor vocetur, remaneat placitum de warrantia in suspensiō usq; ad etatem, nisi causa fuerit ita favorabilis, quod etas exspectari non debet, sicut ex causa Dotis) Item non solum vocandiss est ad warrantum ille qui dedit, vel vendidet : verū etiam vocandi sunt eorum heredes descendentes in infinitum propter verba in Chartis contenta, Ego & heredes mei warrantizabimus tali & heredibus suis, &c.) Et in quo casu tenentur heredes warrantizare, sive sint propinqui, sive remoti, remotores, vel remotissimi. Et quod de heredibus dicitur, idem dici potest de assignatis, & de illis, qui sunt loco illorum heredum, sicut sunt capitales Domini qui tenentibus suis quasi succedunt, vel propter aliquem defectum, vel propter aliquod delictum, sicut de eschaeis Dominorum : By which words wee perceive that*

that the burthen of this warrantie is not tyed to heires onely, bee they in the descending, or collaterall line, but that under this word (*Heredes*) are comprised all such, as the first warranters lands afterwards come unto, either by descent, or otherwise *ex causa lucrativa*. So that if a man have twenty children, yet if hee will, and may give his land to a stranger, leaving his children no land: that stranger in this case is his assigne, and is conteined under this word, heire. So if hee commit felonie after such warrantie covenanted, and forfeited his lands to his Lord by escheate: the Lord is *quasi hares* in this case, and liable to the warrantie formerly passed. And in these two latter cases: warrantie in the second signification seemeth to be neither lineall, nor collaterall: at the least, as *Littleton*, and the other Authour have defined, or by examples expressed them.

But yet let us define these two species as they be; wherefore lineall warrantie is that, which hee is called unto by the Tenent, upon whom the land warranted had descended, if the warrantee had not beene covenanted. For example: *A.* selleth to *B.* twentie acres land with clause of warrantie, and afterward dieth, leaving issue. *C.* soone after *B.* is im-

pledged for this land by *D.* and voucheth *C.* This is called a lineall warranty: because but for it the land had descended from *A.* to *C.*

Warranty collaterall, is that whereunto hee is called by the Tenent, upon the covenant of him, from whom the land could not descend, to the party called. For example: *B.* the Sonne purchaseth Tenements in Fee, whereof *A.* his Father disfiseth him, and selleth them to *C.* with a clause of warantie. *A.* being dead, *C.* is impleaded for the Tenements, and calleth *B.* to warrantie. This warrantie whereunto *B.* is called, is collaterall: because the Tenements, if the warrantie had not beene covenanted by *A.* could not have descended from him to his Father *A.* for they were his owne by purchase. Many other examples there bee of this in *Littleton*. And this very case hee maketh his example of warrantie by disfisin, as also of warrantie collaterall, which plainly argueth, that warranty by disfisin, and warrantie collaterall, are not distinct members of warrantee, but may be confounded: though one warrantie may carry both names in divers respects. For there is some warrantie collaterall that beginneth not by disfisin. For exam-

example : *A.* Tenent in taile, alienateth to *B.* in fee, and dyeth leaving issue. *C.* afterward. *D.* Brother to *A.* and Uncle to *C.* releaseth to *B.* with warrantie, and dying, leaveth *C.* his heire being next of blood unto him. This warrantie is collaterall, because it descendeth upon *C.* from his Uncle *D.* and yet it beginneth not by disseisin of his said Uncle.

Warrantie, hath a double effect : one to debarre him upon whom it descendeth from the first warranter as his next of blood, from claiming the land warranted; and another to make it good to the tenent, if by him hee bee vouched thereunto, or else to give him as much other land by exchange. But as the former of these effects taketh place with all heires, except those to whom the land warranted was intailed, and that reape no equivalent benefit by the first warranter, anno 6. Ed. prim. cap. 3. so the latter prejudiceth none that receiveth not sufficient land from the first warranter to make it good, Bracton, lib. 5. tractat. 4. cap. 8. num. prim. & cap. 13. num. 2. In the Custumary of Normandie, ca. 5. you have *vouchement de garant*, which the Interpreter translateth, *Vocamentum Garanti*, a Voucher or calling of the warranter into the

Court to make good his sale or gift.

Warrantia diei, is a writ lying in case, where a man having a day assigned personally to appeare in Court to any action wherein he is sued, is in the meane time by commandement imployed in the Kings service, so that hee cannot come at the day assigned. This Writ is directed to the Justices to this end, that they neither take nor record him in default for that day. Register originall, fol. 18. Of this you may reade more in Fitzherb. nat. brev. fol. 17. and see Glanvile, lib. prim. cap. 8.

Warrantia chartae, is a Writ that lieth properly for him who is infeoffed in land or tenements with clause of warrantie, and is impleaded in an Assise or Writ of Entrie, wherein hee cannot vouch or call to warrantie: for in this case his remedy is, to take out this Writ against the feoffour or his heire, Regist. origin. fol. 157. Fitzb. nat. brev. fol. 134. Of this you may likewise reade Fleta, lib. 6. cap. 35. and Web. parte 2. symb. titulus Fines. Sct. 156.

Warrantia custodia, is a Writ Judiciall, that lyeth for him that is challenged to bee ward unto another, in respect of land said to bee holden in Knights service, which when it was bought

by the ancestors of the Ward, was warranted to be free from such thraldome. And it lieth against the warrantee and his beires, Regis. Judic. fol. 30.

Warren of Attorney. See *Letter of Attorney*, and *Warren*.

Warde significat quietus etiam
sefriens in agro quo non invi-
nit quis hominem ad invadendum si-
cundum in eastris, vel aliis, Eclat,
lib. 1. cap. 47.

Warren (warenn, alias war-
ren) comone of the French
(Garrisse, i. circumscribere, vel inclo-
si quod vel areas, vel poyes, vel fore
contingere, que ad ultimum non ex-
stent perirent) Calegion out of An-
dreas Geliss, lib. 2. Noct. Ante. ca.
20. A warren (as we use it) is a
prescription or grant from the
King to a man, of having Feliants,
Partridges, Connies, and Hares,
within certaine of his Lands,
Corporis Jur. d. fol. 148. where
hee saith, that none can have war-
ren, but onely the King, no more
than Forrest or Chase. Because it
is a speciall priviledge belonging
to the King alone. And a little
after hee bath words to this ef-
fect: The King may grant war-
ren to mee in mine owne lands,
for Feliants and Partridges only.
And by this grant no man may
there chace them without my
licencse. And so of Hares, but
not of Connies. For their pro-
perty is to destroy the frutes

of the earth, as to eate Corne,
and pill the bark of Appletrees.
Master Mazzard in his first part
of Forrest lawes, saith thus of it:
A warren is a franchise, or pri-
viledged place of pleasure, onely
for those beasts and foules that
are beasts and foules of warren,
scilicet campestres, & non silve-
stres, viz. For such beasts and
foules as are altogether belong-
ing to the fields, and not unto
the woods: and for none other
beasts or foules. There are but
two beasts of warren, that is to
say, Hares and Connies: And
there are also but two foules of
warren, viz. Felants and Partrid-
ges. And none other wild beasts
or birds have any firme peace,
priviledge, or protection, within
the warren. If any person be
found to be an offender in any
such free warren, hee is to be
punished for the same by the
course of the common Law, and
by the Statute, anno 21. Edw. 3.
called the Statute de malefactio-
nibus in parco et chase, &c.
For the most part there are no
Officers in a warren, but the
Master of the Game, or the Kee-
per. A free warren is some time
inclosed, and also the same
some time doth lye open, for
there is no necessitie of inclosing
the same, as there is of a Park, for
if a Parke be suffered to lie open,
it ought to bee seid into the
Kings

Kings hands. Thus farre *M.*
Manwood.

Warfeot, is the contribution, that was wont to be made towards Armour in the Saxons time. In *Canutus* his Charter of the Forrest set out by *M. Manwood* in the first part of his Forrest Lawes, num. 9. you have these words : *Sunt omnes tam primarii quam mediocres, & minutis, immunes, liberi & quieti ab omnibus provincialibus summonitionibus, & popularibus placitis, que Hundred lagbe Angli dicunt, & ab omnibus armorum exercitibus, quod Warfeot Angli dicunt, & forinsecis querentia.*

Warvit, alias *Wardvit*, is to be quit of giving monie for keeping of warchas. New exposition of Law termes.

Waste (*vastum*) commeth of the French (*gaster*. i. *populari*). It signifieth diversly in our common Law, first a spoile made, either in houses, woods, gardens, orchards, &c. by the tenant for terme of life, or for terme of anothers life, or of yeeres, to the prejudice of the Heire, or of him in the *Reversion* or *Remainder*. *Kitchin*, fol. 168. &c. usque 172. upon this committed the Writ of waste is brought for the recoverie of the things, whereupon the waste is made. See *Vasto*. Waste may bee also made of tenents or bond-

men belonging or regardant to the manour. *Regist. orig. fol. 72. a.*

& 73. a. See the new booke of Entries, verbo *Waste*. A waste of the Forrest (as *M. Manwood* saith, *parte prim.* of his Forrest lawes, pag. 172.) is most properly where any man doth cut downe his owne woods within the Forrest, without license of the King, or of the Lord chiefe Justice in Eyre of the Forrest. But it is also, where a man doth plow up his owne meadow or pasture, and converteth it unto tillage. And of this you may reade him at large, in his second part, cap. 8. num. 4. & 5. Waste in the second signification is taken for those parts of the Lords Demesnes, that bee not in any one mans occupation, but lye common for bounds or passages of the Lord and tenent from one place to another, and sometimes for all the Kings Subjects. Which seemeth to bee called waste, because the Lord cannot make such profit of it, as hee doth of other of his land, by reason of that use which others have of it in passing to and fro. Upon this none may build or feed, or cut downe Trees, without the Lords license. Waste hath a third signification, as *yeere*, *day*, and *waste*. *Annuus*, *dies*, & *vastum*: which is a punishment or forfeiture be-

longing to petit treason, or felonie : whereof you may reade *Statuonf. pl. car. lib. 3. cap. 30.* And see *Yeare, Day, and Waste.*

Wasters, anno 5. Ed. 3. cap. 14. See *Roberds men.* See *Draw lathees.*

Wastell breade, anno 51. H. 3. statute of bread, and statute of pilorie.

Water bayliffes, seeme to be officers in port Townes for the searching of Ships, anno 281 H. 6. cap. 5.

Watling street, is one of the foure wayes, which the Romanes are said to have made here in England, and called them *Consularis, Praetorius, Militares, Publicas.* M. Camden in his *Britannia,* perswadeth himselfe that there were more of this sort than foure. This street is otherwise called *Werlam street* (as the same Author saith) ; and howsoever the Romanes might make it and the rest, the names bee from the Saxons. And Roger Hoveden saith, it is so called, because the sonnes of Wetle made it, leading from the East sea to the West, *Annal. part. prior. fol. 248.* This street leadeth from Dover to London, and so to Saint Albans, and there onward directly toward the North-west through the land, as from Dunstable to Westchester, anno 39. El. cap. 2. the second street is called *Ike-*

mild street, beginning ab Icenis, who were the people inhabiting Northfolke, Suffolke, and Cambridge shire, as M. Camden declareth, pag. 345. The third is called *Fosse :* the reason of the name hee giveth, because he thinketh it was ditched of each side. The fourth is called *Ermin street,* *Germanico vocabulo, à Mercurio,* quoniam sub nomine Irminisfull. i. Mercurii columnis, Germani majores nostri coluerunt. Of these reade more in the said Author, pag. 43. & 44. In the description of England going under Saxon's name, cap. 7. I reade that Belinus a Briton King made these foure wayes : whereof the first and greatest hee calleth *Fosse,* stretching out of the South into the North, and beginning from the corner of *Cornwall,* and passing forth by *Devonshire, Somersetshire,* and so along by *Tisbury upon Tresmould* besides *Coventry* unto *Leicester,* and thence by the wide plaines to *Newarke,* and to *Lincolne,* where it endeth. The second hee nameth *Watling street,* comming out of the South-east toward the *Fosse,* beginning at *Dover,* and passing through the middle of *Kent* over *Thames,* beside *London* neare *Westminster,* and thence to *Saint Albans,* by *Dunstable, Stratford, Towcester, Wedon, Lilborn, Atberiston, Gilberts bill,* now called *Wreaken,* by *Severne*

Severne, Worcester, Stratton, and so forth by the middle of Wales, unto Cardigan, and the Irish seas. The third hee calleth *Ermine-street*, stretching out of the West North-west into the East South-east, from S. Davids in the West Wales unto Southampton. The fourth hee called *Rikenild street*, stretching forth by Worcester, by Wicombe, Brinbingham, Litchfield, Derby, Chesterfield, and by Torke forth into Tyrnouth. But he that listeth to reade at large of these wayes, let him have recourse to the first volume of Holinsbeds Chronicle, and the description of England there, the 19. chapter. Where this antiquitie is farre otherwise declared, then by the former writer. Henry of Huntington likewise in the first booke of his History, not farre after the beginning mentioneth these fourre streets, terming them *callas Regis sublimatus autoritate, ne aliquis in eis inimicu[m] invadere anderet, &c.*

Waterbayliffes, anno 28. H. 6. cap. 5. is an officer belonging to the Citie of London, which hath the supervision and search of fish, that is brought to that Citie, as also the gathering of the tolle rising from that water. Hee is reckoned an Esquier by his Office, as the Sword-bearer, the Huntsman, and the chiefe Sergeant is. He also attendeth upon

the Lord Maior for the time being, and hath the principall care of marshalling the guests at his table.

Wtly, See *Chimin*.

Wcife (*marium*) whence it hath his originall I cannot certainly say. But I finde the nineteenth chapter of the Grand Custumary of Normandie to be intituled (*De choses gaines*) and latined by the Interpreter (*De rebus vniuersitatis*) which are there thus defined: *vna sunt res, vel alia, que nullum proprietati attributa, sine possessio[n]is reclamacione sunt inventa, que usque ad diem & annum servanda sunt. Et de isto modo, quo dictum est de veris circa, that is (weeks) ea sua esse probantibus est restitutio facienda, &c.* This weife or things weived haye the very same signification in our common law, and bee nought but things forsaken. The Civilians call it (*Derelictum*) or (*Quod est pro derelicto*) Bracton in the twelve chapter of his first booke mu. 10. reckoneth them *inter res quae sunt nullius ea que pro marvio habentur: sicut de averis, ubi non apparet Dominus*, where hee also saith, *quod olim fuerant inventoris de jure naturali, & jam efficiuntur principis de jure Gentium.* That this is a Regality, and belonging to the King, except it bee challenged by the owner within a yeere and a day, it appeareth by Britton in his

venteenth chapter. Now the Kings in their times have granted this and such like Prerogatives unto divers Subjects with their fees , who there likewise saith , that weifes , things lost , and eltrayes , must by the Lord of the franchise where they are found , bee caused to bee cryed and published in Markers and Churches neere about , or else that the yeere and day doth not runne to the prejudice of him that hath lost them. See *Waine* , M. *Skene de verborum signif. verb. waife* , saith , that *waife est pecus, vel animal aberrans* , which wanders and wavrs without a knowne master , and being found by any man within his owne bounds , must bee by him proclaimed upon divers , and sundry Market dayes , at the Parish Church , and within the Sheriff-e-dome . Otherwise the Deteyner may bee accused of theft. And it is lawfull for the owner to challenge the beast within a yeere and day. Whereby it appeareth , that in Scotland that is called a weife which we here call a stray or estray.

Weald of Kent , is the wooddy part of the Countrie , *Camden Britanniæ* , pag. 247. M. *Verstegan* in his restitution of decayed intelligence saith , that *VVald* , *VVeald* , and *VVould* differing in

vowell, signifie one thing , to wit , a Forrest. See the rest *litera W*.

Wedding (*Nuptiæ*) commeth of the German (*wed*) i. *pignus* , and wedde in Scotland signifieth so much at this day. *Skene de verborum signif. verbo vadum* .

Weigh (*maga*) is a certaine waight of cheeze or wooll , containing 256. pounds of *avoyr de poye* . See *Clove*.

Weights (*Pondera*) what they be , it is well knowne. There bee two sorts of them in use with us. The one called *Troy weight* , which containeth twelve ounces in the pound , and no more : by the which , pearle , precious stones , electuaries , and medicinall things , gold , silver , and bread be weighed : The other is called *Aver de pois* , which containeth sixteene ounces in the pound. By this all other things are weighed that passe betweene man and man by weight , saving onely those above named , why the one should bee called *Troy weight* , I have not learned , though I reade it termed *libram & unciam Trojanam* : as if it came from Troy. But *Georg. Agricola* in his learned *Tractate de ponderibus & mensuris* , pag. 339. termeth the pound of twelve ounces , *libram medicam* , and the other of sixteene ounces , *libram civilem* ; saying thus of them both : *Medica & civilis libra , numero non gra-*

gravitate uncianum differunt. The second seemeth so to bee termed by reason of the more full weight; for (*Avoir de pois*) in French, is as much as to say, as to have full weight. Put by these words (*avoir de pois*) are some time signified such Merchandise as are bought and sold by this kind of weights. The first statute of Yorke, anno 9. Ed. 3. in problem. & anno 27. Ed. 3. stat. 2. cap. 10. & anno 24. H. 8. cap. 13. Of VWeights in Scotland. See *Skene de verbo signif. verbo. Serplatbo.* All our weights and measures have their first composition from the penny sterlinc, which ought to weigh two and thirty wheat cornes of a middle sort, twenty of which pence make an ounce, and twelve such ounces a pound, or twenty shillings, but fifteene ounces make the Merchants pound, *Fleta lib. 2. cap. 12.* It is not unlike that this Merchants pound, though an ounce lesse, should bee all one in signification with the pound of *Avoir de pois*: and the other pound, called by *Fleta ironie weight*, plainly appeareth to be all one with that which wee now call Troy weight. And I finde not Troy weight mentioned by any other that ever I read upon this subject, but onely our owne Countrey men. See *Tronage*.

Weights of Auncell, an. 14. Ed. 3. stat. 1. ca. 12. See *Auncell weight*. *Were, alias werre*, signifieth as much as (*Aestimatio capitis, aut pretium hominis. M. Lamb. explic. of Saxon words. vrb. Aestimatio*) That is to say, so much as one paid for killing of a man. Whereby hee gathereth, that slaughters, and such other great offences, were more rarely committed in ancient times than now: when as for the multitude of offenders, death is most justly inflicted for those crimes, that then were redressed by pecuniary mulcts. Of this see *Roger Hoveden, parte poster, suorum annalium: in Henrico 2. fo. 344.*

Weregelt thef. significat latronem qui redimi potest. *wera enim anglicè idem est in Saxonis lingua, vel pretium vite hominis appretiatum. Fleta, lib. 1. cap. 47.*

West Saxon lage, alias West Sexen-lage. See *Law*.

Wharfe (wharfa) is a broad plain place neere to a Creeke or *Hithe* of the water, to lay wares upon, that be brought to or from the water, to bee transported to any other place. *New booke of Entries, fol. 3. col. 3.*

Wharfinger, is the keeper of a wharfe, anno. 7. Ed. 6. ca. 7.

White hart silver (*Candidi Cer- vi argentum*) is a tribute or mulct paid into the Exchequer out of the Forrest of White hart: which (as *M. Camden reporteth in his Britan.*

Britan, pag. 150.) hath continued from Henry the thirds time, and was imposed by him upon Thomas De-la-linde, for killing of a most beautifull Hart, which himselfe before had purposely spared in hunting.

Widow (*vidua*) seemeth to come of the French (*vuide*. i. *inanius*, *exinanitus*) or the verb (*vuidre*. i. *inaniare*) *quasi privata atque orba marito*. *Macrobius lib. 1. saturn. ca. 15.* draweth it from the Hetruscan verb (*Iduare*. i. *divide-re*). *Unde vidua quasi valde idua. i. valde divisa: aut vidua. i. à viro divisa.* The signification with us is apparent. But there is one kind of widow, called the widow of the King, or the Kings widow (*vidua Regis*) that requireth exposition. And she in that widow, which after her Husbands death, being the Kings tenent *in capite*, is driven to recover her dower by a Writ *De dote assignanda*. Of whom you may reade *Statu. prerog. cap. 4.* The words of the statute of the prerog. made anno 17. Ed. 2. be these: *Item assignabit viduis post mortem virorum suorum, qui de eo tenuerunt in capite, dotem suam, quae eas contingit, &c.* *lacet heredes fuerint plena etatis, si vidua voluerint. Et vidua ille ante assignationem dotis sue predictae, sive heredes plena etatis fuerint, sive infra etatem, jurabunt, quod se non maritabunt sine licentia Regis.* Of this see likewise the great Charter, cap. 7. whereby it appeareth that other common Lords have the same power over their widowes, touching their consent in their marriage, that the King hath. Of this you may reade more in the Writ *De dote assignanda*. *Fitzb. nat. brev. fo. 263. C.* See also the Statute, an. 32. H. 8. cap. 46.

Regis. Tunc Rex capiet in manum suam nomine distictionis omnis terras, & tenementas que de eo tenuerit in dotem, donec satisfecerint ad voluptatem suam: ita quod ipsa mulier nihil capiet de exitibus, &c. *quia per hujusmodi distictiones bus-jusmodi mulieres, seu vires eorum finem facient Regi ad voluptatem suam.* Et illa voluntas tempore Regis Henrici patris Regis Edwardi estimari consuevit ad voluntiam predictarum dotis per manus annos ad plus, nisi ulteriore gratiam habuerint. *Mulieres, que de Rege teneant in capite aliquam hereditatem, jurabunt similiter, cujuscunq; fuerint etatis, quod se non maritabunt sine licentia Regis.* Et si fecerint, *terre & tenementa ipsarum eodem modo capiantur in manum Domini Regis,* quousque satisficerint ad voluntatem Regis. Of this see likewise the great Charter, cap. 7. whereby it appeareth that other common Lords have the same power over their widowes, touching their consent in their marriage, that the King hath. Of this you may reade more in the Writ *De dote assignanda*. *Fitzb. nat. brev. fo. 263. C.* See also the Statute, an. 32. H. 8. cap. 46.

VVindelesor, a Herald. See Herald.

Withernam (vetitum Namium) Master Lambert thinketh to bee compounded of (wither. i. altera, sive secunda) & (Nam. i. pigno-

pignoris captio) marveiling much why it should so farre bee depraved in the Interpretation, as to bee translated (*Vetitum Namnum*.) Reade him in the Explication of Saxon words, *verbū*, *Pignorari*. The concord of the thing signified with the meaning of the Latine words, maketh some to thinke, that it is compounded of (*wehren*) i. *veto*,) and (*nyman*) or (*nemmen*, i. *capio*). For *Withernam* in our Common law is the taking, or driving a distresse to a hould, or out of the countie, so that the Sheriffe cannot upon the Replevin make deliverance thereof to the partie disteined: In which case, the Writ of *Withernam*, or *de verito Namio* is directed to the Sheriffe, for the taking of as many of his beasts that did thus unlawfully distrein, or as much goods of his, into his keeping, till that he hath made deliverance of the first distresse. Also if the beasts bee in in a fortlet or castle, the Sheriffe may take with him the power of the Countie, and beat downe the Castle, as it appeareth by the statute, *Westm. pri. cap. 20. Britton. cap. 27.* But Mr. Lamberds Interpretation, seemeth more consonant to the writ, the forme whereof is thus in part (*Fitzb. nat. br. fol. 73.*) *Tibi pricipimus quid averia pre-*

*didi B. in Balliva tua capias in
withernam, &c. and the Register orig. fol. 82. & 83. & 79. a. & 80. a. and in the Regist. Judic. fol. 29. a. & 30. a. Whereby it appeareth, that the Sheriffe by these words is willed to take in compensation of the former taking so many cattell, &c. But yet this may qualifie Master Lamberds marveiling, because they that translated this word into such Latine, seeme to have been deceived by the propinquity of the word (*wehren*) both to the word (*witheriam*) and also to the meaning. This error (if it be an error) hath a probable likelihood of descent from the Normans, as appeareth by the Grand Custumarie, cap. 4. where you have words to this effect: *Deficientes (sc. Balizos) facere justiciari, & ea, de quibus judicium vel recordatio habet fieri in curia: debet (sc. Justiciarim) retrahere vel recitare. Treugam dari debet facere, quod est asscuratio pacis observande. Nimpia inuste capta per ius facere liberari, &c.* Here you may see (*Nampta*) referred to the first taking or distresse, which is unlawfull. Sir Thomas Smith in his *Repub. Anglor.* agreeth with M. Lamberd in these words: This (*withernam*) he meaning Littleton, with whom Braffton also agreeth, lib. 2. cap. & lib. 3. tract. 2.*

cap. 36.) interpreteth *utinum* *Namium*, in what language I know not. Whereas in truth it is in plain Dutch, and in our old Saxon language. (p. 37. *nempt.* i. *alatum accipere, latitum rapere*) a word that signifieth all one with that Barbarous Latine word (*Reprobus*) when one ta-
king of me a distresso, which in Latine is called (*pigium*) or any other thing, and carrying it away out of the jurisdiction, where I dwell; I take by order of him that hath jurisdiction; another of him againe, or of some other of that jurisdiction: and doe bring it into the jurisdiction, wherein I dwell: thid by equall wrong I may come to have ei-
quall right, &c. *Namia anima-
lium* in Scotland is used for the pounding of cattell, *Skeu de
verbis*: signif. *verbis*, *Averia*: whom also reade, *verbis*, *Namare*. *Witberniam* in *Bracon*; lib. 3.
tract. 2. cap. 37. and also in *Westm* cap. 2. seemeth to signifie an unlawfull distresso, made by him that hath no right to distreine, an.
13. Ed. prim. cap. 2. See the new booke of Entries. *Verbo Wit-
berniam.*

Wood (*glasiam*) is an herbe brought from the parts of *To-
louse* in *France*, and from *Spaine*, much used and very necessary in the dying of wollen cloth, *an. 13. H. 8. cap. 2.* wee call it *wood* of the

Italian word (*guada*) or the Ger-
mane word (*meids.*)

Woodgild; seemeth to bee the gathering or cutting of wood within the Forest, or money payed for the same, to the vise of the Foresters. And the immu-
nity from this by the Kings grant, is by Crompton called *Woodgild*, fol. 27.

Woodmen seem to be those in the Forest, that have their charge especially to looke to the Kings woods. *Manwood parte pri. of his Forest lawes*, pag. 193. and Cromptons *Iuris*, fol. 146.

Woodward court, is the Attach-
ment of the Forest. *Manwood parte
pri. of his Forest lawes*, pag. 93.
See *Attachment*.

Woodward (*Woodwardus*) is an officer of the Forest, whose function you may partly gather by his oath set downe in Cromptons *Jurisd.* fol. 20. which *M. Man-
wood* hath also in his first part of his Forest lawes, pag. 50. to the same effect, but something more at large. viz. You shall truly execute the office of a Woodward of B. woods within the Forest of W. so long as you shall bee wood-
ward there: you shall not con-
ceale any offence either in Vert or in Venison, that shall bee com-
mitted or done within your charge: but you shall truly pre-
sent the same, without any fa-
vour, affection or reward. And it

if you doe see or know any Malefactors, or doe find any Deere killed or hurt; you shall forthwith doe the verderour understand thereof. And you shall present the same at the next Court of the Forrest: bee it Swainmote, or Court of Attachments, to help you God. VWoodwards may not walke with Bow and Shafts, but with Forrest bils, *Mainwood parte pia* of his Forrest lawes, pag. 189. and more of him, pag. 97.

Woodriver, anno 2. & 3. Ph. et Ma. cap. 13. bee those that buy VVool abroad in the Country of the sheep-masters; and carry it by Horse-back to the Clothiers, or to Market townes to sell it againe.

Woolfribbed (*Caput Lepinum*) is the condition of those, which were outlawed in the *Saxons* time, for not yielding themselves to Justice. For if they could be taken alive, they must have been brought to the King: and if they in feare of apprehension did defend themselves, they might bee slaine, and their heads brought to the King. For they carried a Woolves head: that is to say, their head was no more to be accounted of, than a Woolves head, being a beast so hurtfull unto man. See the lawes of K. Ed. set out by M. Lambard, fol. 127. b. m. 7. The very like wherof Bracton also saith, lib. 3. tract. 2, cap.

See *Uthary*. Roger Hoveden writeth that (*Wulfricised*, parte poster. *suorum annalium*, fol. 343. b.) whom read of this matter, because you shall there see what it was in thole dayes to violate the peace of the Church.

Woolstaple, anno 5 et H. 3. cap. 5. See *Staple*.

Wooll winders, bee such as wind up every fleece of wooll that is to bee packed and sold by weight, into a kind of bundle after it is cleansed in such manner as it ought to be by statute. And to avoid such deceit as the owners were wont to use by thrusing locks of refuse Wooll, and such other drosse to gaine weight, they are sworne to performe that Office truely betweene the owner and the Merchant. See the statute, anno 8. H. 6. cap. 22. & anno 23. H. 8. cap. 17. & anno 18. Eliza. cap. 25.

World. See *Weald*.

Wranglins, seeme to bee mis-grown Trees that will never prove Timber, *Kitchin*, fol. 169. b.

Wormseed (*Semen sandonicum*) is medicinall seed brought forth of that Plant which in Latine is called (*Sementina*) in English, Holy worm-wood, whereof you may reade in *Gerards Herball*. b. 2. cap. 435. This is a Drugge to bee garbled, anno 1. Licob. cap. 19.

Wreck (*wreccum vel wreclum maris*) is the losse of a shippe and the goods therein conteyned, by tempest, or other mischaunce at the sea. The Civilians call it (*Naufragium*) This wrecke being made, the goods that were in the shippe, being brought to land by the waves, belong to the King by his prerogative. And thereupon in many Bookes of our Common-lawe, the very goods so brought to land are called wrecke. And wrecke is defined to bee those goods which are so brought to land. Sir Edward Coke, vol. 6. *relatio*, fol. 106. a. and the statute anno 17. Edward. 2. cap. 11. in these words, *Item Rex babebit wreccum maris, per totum Regnum, ballenas, & sturgiones captas in mari vel alibi infra Regnum, exceptis quibusdam locis privilegiatis per Regem.* Whereby it appeareth that the King hath them, or such as have by Grant this libertie or Priviledge of him. And that this Statute doth but affirme the auncient Lawe of the Land, it appeareth by Bracton, lib. 2. cap. 5. num. 7. *bis verbis: Sunt etiam alie res quae pertinent ad Coronam propter privilegium Regis, & ita communem non recipiunt libertatem, quin dari possint, & ad alium transferri. Quia si transferantur, translatio nulli erit damno-*

sa, nisi ipsi Regi sive Principi, Et si hujusmodi res aliqui concasse fuerint, sicut wreccum maris, &c. The reason of this hee toucheth shortly in his first booke, cap. 12. num. 10. where hee reckneth these goods (*jure naturali*) to bee (*in bonis nullius*) *quia non appetet Dominus eorum, sed jure Gentium fieri principis:* And see him also lib. 2. cap. 24. num. 1. & 2. It is worth the asking to knowe what is a wrecke and what not in this stricter signification. And the Author of the termes of Law saith, that if any person of the Ship come to land, it is not a wrecke, or the wrecke is not such, that the King ought to have the goods, with whom agreeeth Sir Edward Coke vol. 6. fol. 107. a. No, if either Dogge or Catte escape alive to the land, the goods are the honours still, so hee come within a yeare and a day to claime them. And for this the statute is plaine. Westm. prim. cap. 4. anno 3 Edward prim. which doctrine Fitzherbert in his *natura brevium*, fol. 112. E. extendeth thus farre, that if any of the goods bee cast upon the dry Land by any in the ship, it is no wrecke subject to the Prerogative, for by this some of the Ship are presumed to come to land, and still to have a custody of the goods. Cooke ubi supra, This is the Grand Custumary of Norman-

Normandy. cap. 17. is called (*vacchein*) and latined (*verisum*) where it appeareth that the like law to ours was in Normandy almost in all points. But some sorts of their pretious Merchandise doe by their law appertaine to the Duke by his prerogative, though a just challenge of the goods bee made within the yeare and day. The Emperours of Rome made no advantage of this pitifull event, as appeareth: *titulo De Nafragijs* 11. *Cod.* And it appeareth that Richard the first had some remorse of poore sea-mens miseries in this case. For he *quietum clamavit wreck suis subditis*. *Roz. Hoveden parte poster: suorum annal. fol. 386.* Of this *M. Skene de verb. signif.* speaketh to this effect: *wreck* signifieth a power, libertie, and prerogative appertaining to the King, or to any person, to whom the same is granted by him by seafment, or any other disposition, to take up and gaine such goods as are ship-broken, or fall to him by escheate of the sea.

Writ (brue) is that with our common lawyers (in *Sir Tho. Smiths judgement lib. 2. de Re-pub. Anglorum. cap. 9.* which the Civilians call (*Aetionem, sive formulam*) But I am rather of his judgement, that hath added

the marginall note unto him, saying that (*Aetio*) is the parties whole suite: and that (*Breve*) is the Kings precept, whereby any thing is commanded to bee done touching the suite or action; as the Defendant or Tenant to be summoned, a distresse to bee taken, a disseisin to bee redressed, &c. And these writs are diversly divided, in divers respects. Some in respect of their order, or manner of graunting, are termed originall, and some Judiciall. Originall writs bee those, that are sent out for the summoning of the Defendant in a personall, or Tenant in a reall action, or other like purpose, before the suite beginneth, or to beginne the suite thereby: Those, bee judiciall, that bee sent out by order of the Court, where the cause dependeth, upon occasion growing after suite begunne, *old nat. br. fol. 51.* And Judiciall is thus by one signe knowne from the Originall, because the *Teste* beareth the name of the chief Justice of that Court whence it commeth, where the Originall beareth in the *Teste* the name of the Prince, Then according to the nature of the action, they bee personall, or reall: and reall bee either touching the possession, called writs of Entrie, or the property, called writs of right.

Fitz. not. b. 2. 1. 1. 1. 1. 1. Some writs bee at the service of a party, some of office, *Oldnot. br. fol. 147.* Some ordinary, some of priviledge. A writ of priviledge is that which a priviledged person bringeth to the Court, for his exemption, by reason of some priviledge. See *Procedendo.* See the new booke of Enteries. *verbo, Priviledge.* See *Brisfe. lib. 1. cap. 1.*

Wait of rebellion. See *Commission of rebellion.*

Writer of the tallies (*Scriptor talliarum*) is an officer in the Exchequer, being Clerk to the Auditor of the Receipt, who writeth upon the Tallies the whole letters of the Tellers bills.

Yardland. (*Yardus etiam de terra*) is a quantity of land called by this name, of the Saxon (*Gyrdlender*) but not so certain a quantity, as that it is all one in all places:

For in some Countries it containeth 20. acres, in some 24. in some 30. as *M. Lambert* saith, in his explication of Saxon words. *verbo. virga. terra.* This yardland *Braction* calleth *virgatam terram.* *lib. 2. cap. 10; & 27.* but hee expresseth no certainty what it containeth.

Year and day (*annus & dies*) is a time thought in construction of our common law, fit in many

cases to determine a right in one, and to worke an accusation or prescription in another. As in a case of an estray, if the owner (Proclamations being made) challenge it not within that time, it is forfeit. So is the year and day given in case of appeal, in case of descent after entry or claime; of no claime upon a fine or writ of right at the common law: so of a villein remaining in ancient deman, of the death of a man fore bruised or wounded: of Protections; Essoines in respect of the Kings service: of a wreck, and divers other cases; *Coke. vol. 6. folio 107. b.* And that touching the death of a man seemeth an imitation of the civill law. *Nam si mortiferetur vulneratus; & postea post longum intervallum moributus sit, inde annum numerabitur secundum Julianum. l. ait. lex n. ad legem Aquil.*

Year, day, and waste (*annus, dies, & vastum*) is a part of the Kings Prerogative, whereby he challengeth the profits of their lands and tenements for a yeare, and a day, that are attainted of petit treason, or felonie, whosoever bee Lord of the Manor, whereunto the lands or tenements doe belong, and not onely so, but in the end wasteth the tenement, destroyeth the houses, rooteth up the woods, gardens, pasture, and ploweth up mea-

meadowes, except the Lord of the fee agree with him for the redemption of such waste, afterward restoring it to the Lord of the fee, whereof you may reade at large, *Statvs prærog. cap. 16. fol. 44. &c. seqq.*

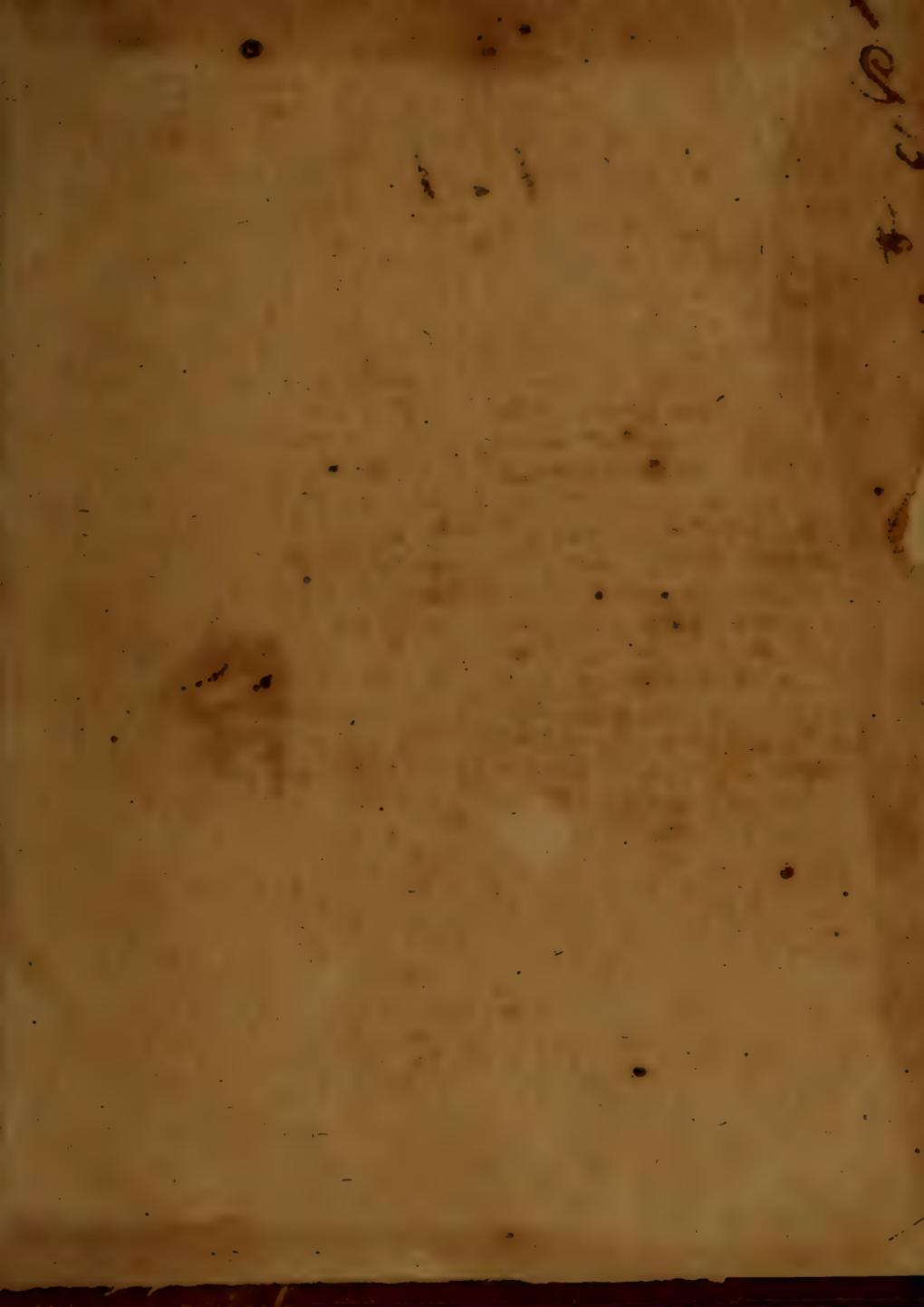
Toman, seemeth to bee one word made by contraction of two Danish words (*young men*) which I gather out of *Canutus Charter* of the forest set out by M. *Manwood*, *parte prim. fol. prim. num. 2.* in these words: *Sunt sub quolibet horum quatuor ex mediocribus hominibus, quos Angli (Legespēnd) nuncupant, Dati verò (young men) vocant, locati, qui curam & omnium tum viridis tum veneris suscipiant.* These M. *Camden* in his *Britan.* pag. 105. placeth next in order to Gentlemen, calling them (*Ingenuos*) whose opinion the statute affirmeth, *anno 16. R. 2. cap. 4.* Whereunto adde the Statute, *anno 20. ejusdem Regis, cap. 2.* Sir *Thomas Smith*, in his *Repub. Anglor.* lib. prim. cap. 23. calleth him a *Toman*, whom our lawes call *legalem kominem*: which (as he saith) is in English a Free-man borne, that may dispend of his owne free land, in yearely revewew, to the summe of forty shillings ster-ling. Of these hee writeth a good large discourse, touching their e-state and use in this Commonwealth. The former etymologie of the name hee liketh not, ma-

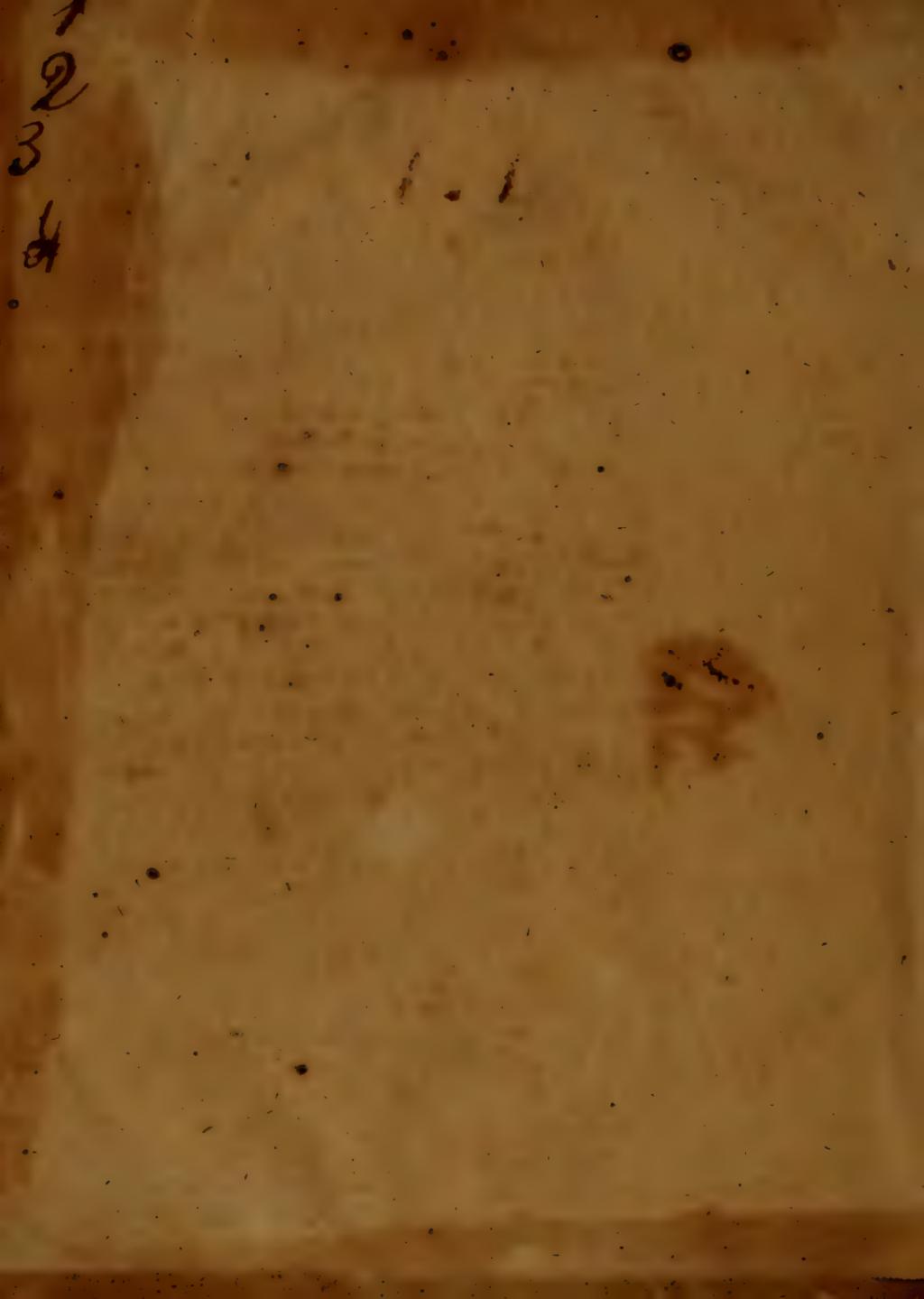
king question whether it come of the Dutch (*Tonger*) yea or not, which in the Low-countries signifieth a meane Gentleman, or a gay fellow; but hee that hath added the marginall notes to that booke, seemeth to draw it from the Saxon (*Geman*) which signifieth a married man. *M. Verste-gan* in his *restitution of decayed Intelligence, cap. 10.* writeth that (*Gemen*) among the ancient Teu-tonicks, and (*Germein*) among the moderne, signifieth as much, as common, and that the first Letter *G*, is in this word, as in many others, turned into *T*. and so written *Temen*; and that therefore *Temen*, or *Teomen* signifieth so much as *Commoner*. *Toman* signifieth an Officer in the Kings house, which is in the middle place between the Sergeant and the Groome: as *Toman* of the Chaundry; and *Toman* of the Scullery, *anno 33. Hen. 8. cap. 12.* *Toman* of the Crowne, *anno 3. Edw. 4. cap. 5. & anno 22. ejusd. cap. 1. & anno 4. H. 7. cap. 7.* This word (*Tongmen*) is used for *Tomen* in the statute, *anno 33. H. 8. cap. 10.*

Tō Θεῶ Δοξα..

F I N I S.

JH





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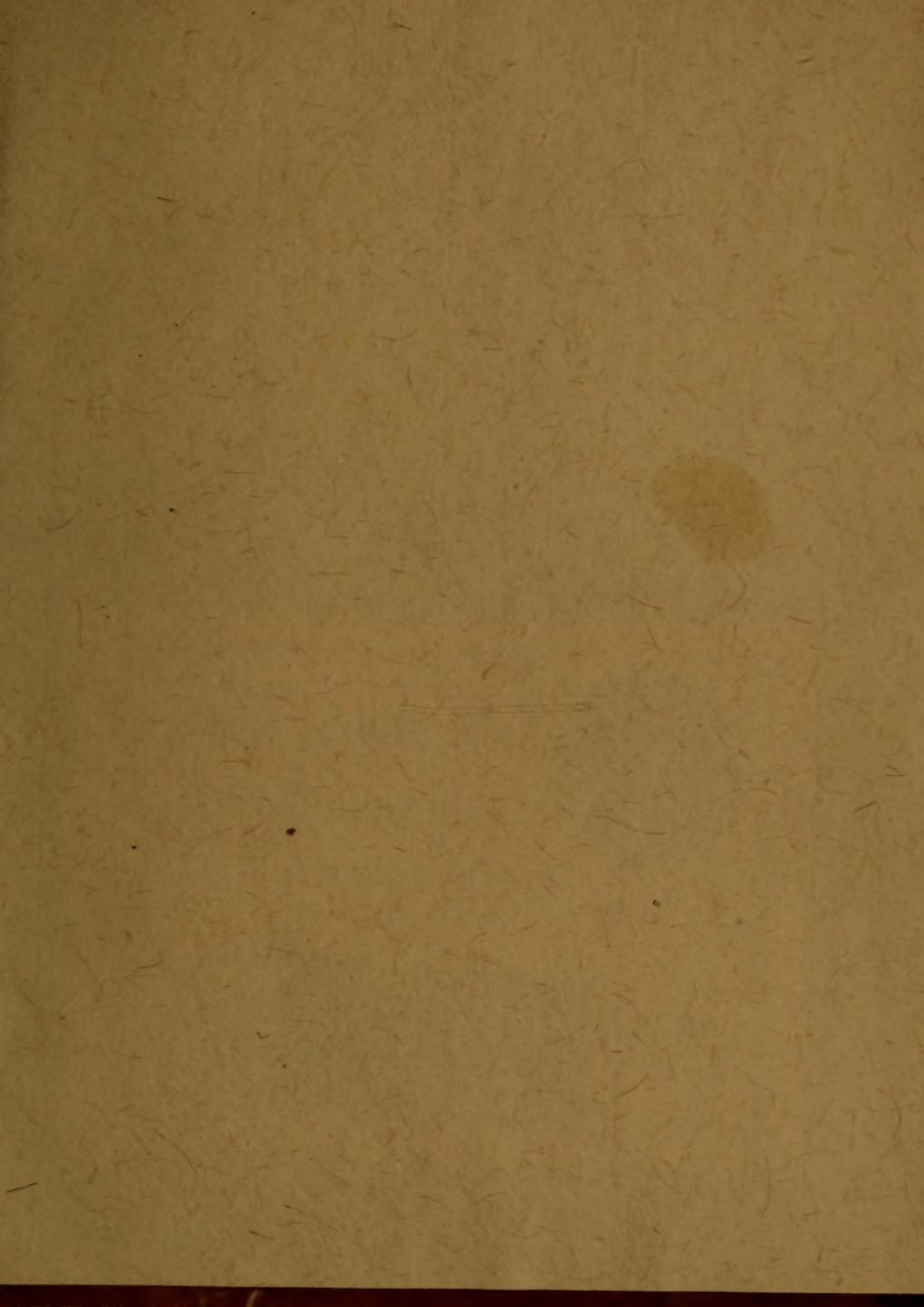
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